App. F. IX-4

1938.
(June)
PRESERVED

File No. 53 of 38
Serial Nos. 1–6.

Previous References
June 203-35 (1-17).
212-36 (1-25)

Letter References
June 2-38 (21, 25)
11-39 (6, 21)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Six only.

Part B for February 1939.

SUBJECT.

Electrical Department – defalcation cases.
(Govt. Vs. Doddiah & Bruppa)
Sessions Case No. 19 (1938-39), Bangalore.

16) To The D. C. Bangalore.
No. 4038 of 28.1.39.

WD 0295—GPB—22,500—18-8-37

Directs that the cases pending in the First Magistrate's Court, Bangalore, may be withdrawn

a Nazeerbhoy
21/2/39

2630 p 837

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore
..... DIVISION,
DISTRICT OFFICE BUILDINGS,

No. 881-3/37-28

Enc.

Dated 30th October *193* 7.

FROM

The Public Prosecutor,
Bangalore ..... *Division,*
Bangalore.

GENERAL SECRETARY. 3 NOV. 1937

To Pro

The General Secretary,
to the Government of Mysore,
Bangalore.

SIR,

Subject :— Electrical Defalcation Case on the file of the City Magistrate, Bangalore.

I have the honour to state that the above case has been adjourned to 25th November 1937 as the

Submitted for perusal
BKR
5-11

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

5/11

5-11-37

WD 03485—GPB—900—30-8-37

Serial No.

From

The P. P.

Bellary

Letter no. P. 105-38/37-38, dated 19 11/37

States that for the reasons mentioned in his letter, it will not be possible to conduct the El. Dept. Defalcation Case, and suggests that the case may be entrusted to a Special P. P. or to the Prosecuting Inspector of Police.

1) The file relating to K1 and K2 lines (Electrical Dept. Case) has been linked to ~~the file~~ T. K. Nanjappa's petition file and has been referred to Govt. Advocate for opinion on 16-11-37.

2) The P. P. ~~says as he will have~~ mentions in his letter the reasons for his inability to conduct the Electrical Dept. Case, and suggests that this case may be entrusted to a Special P. P. or to the Prosecuting Inspector. It is not clear why this reference has been made direct to the Govt., instead of through the Dist. Magt.

El. Dept. Case (K. and K. lines) 3076

File No: Law of 193

General and Revenue Secretariat

matter before the 25th inst., the date to which the case has been posted for hearing.

Submitted for orders

Hy. date 25th Mar: 37

4) This is rather difficult case and it is not easy for new comer to handle the case. The P.P. who conducted the previous case on in the Committal Court and the sessions Court and is quite familiar with the nature of the evidence. In another reference, he has observed that the nature of the evidence in these cases is similar to the evidence in the case already disposed of. It is therefore highly desirable that the P.P. himself conduct this case.

5) I may also add that the petition of the accused praying for withdrawal of these cases is under consideration of Govt. in another file

6) In these circumstances I think the P.P. may be asked to obtain a fairly long adjournment

2661/37
P 37

F

No. 89/37/38.

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore. DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 31st Octr 37 *193*

FROM

The Public Prosecutor,
Bangalore *Division,*
Bangalore.

GENERAL SECRETARIAT
1 NOV. 1937
Mysore

To

The General Secretary,
to Government of Mysore,
Bangalore.

SIR,

Subject:— Electrical Department defalcation case.

I have the honor to state that the above case has been adjourned to 25-11-37 as the records were in the Additional District Court Bangalore where the appeal is reserved for Judgment.

Submitted for perusal
BKR
3.11

3/11

I have the honor to be,
Sir,
Your most obedient servant,

Doraswamy Gr
Public Prosecutor.

WD 0205—GPB—1,000—17-8-33

Sm C
3-11-37

Serial No.

7) It may also be observed that such references are usually made through the concerned District Magistrate.

Hy. date 25th Nov 37

BKR 22.11.37

~~Secy~~ Gen. Secy) ~~22/11/37~~.

GENERAL SECRETARY. 22 NOV. 1937 2851

8) Will asst Secy please speak to me? Bill under consn to withdraw the case against all the accd! Govt may

9) Regarding the electrocution of the person Bhadravathi Electric Transmission Line, prosecution was launched against six persons viz. (1) Doddiah (2) Siddegowda (3) Veeraiah (4) Ramachandrachar (5) Suryanarayanappa and (6) T. K. Narayappa. The first three were joint contractors, and the last three were officials from Electric Department. In the Assistant Sessions Judge's court, accused nos 2, 3, 5 and 6 were acquitted, and accused 1 and 4 (viz Doddiah and Ramachandrachar) were convicted. In appeal before the Additional Sessions Court the conviction of Doddiah was set aside, and the conviction of Ramachandrachar was confirmed.

Electrical Dept. Case
(K, and K. Lines) 0176

Land File No. of 193

General and Revenue Secretariat

10) The present case relates to the defalcation in connection with the re-modelling of Kolar transmission line and the charge sheets are placed against Doddaiah, Ramachandracharlu, Suryanarayanachar and T. K. Nanjappa (who were accused 1, 4, 5 and 6 respectively in the previous case). The petition for withdrawal from prosecution is presented by only one accused T. K. Nanjappa. That petition is under consideration of Govt in the file noted below.

BKR
23.11.37

(Gen. Secy)
Please ask G.A. to take an adjt
Counsel Due. (Sd) 23/11/37)

12) Drafts to Dy
BKR
24.11.37)

13) Two drafts are submitted for approval

14) Issue now
BKR
24.11.37

24

GENERAL SECRETARY.
23 NOV. 1937.
a87

To
The D. A.
Bangalore
No. P. 2712, dt 24-11-37
Requesting to furnish his opinion

To
The P. P.
Bangalore
No. 2711, dt 24-11-37
Requesting him to take an adjt

Sd B 27-11-37
24-11-37

J 3287/37

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore DIVISION,
DISTRICT OFFICE BUILDINGS,

No. 1116-8/37-38

Enc.

Dated 26th November 1937.
29

FROM

The Public Prosecutor,
Bangalore *Division,*
Bangalore.

To

GENERAL SECRETARY
30 NOV. 1937

The General Secretary
to the Government of Mysore,
Bangalore.

SIR,

Subject :—C.C.Nos.6,7,8,9 of 36-37 and 1094 & 1096 of 35-36 on the file of the City Magistrate, Bangalore. Electrical Department Defalcation cases. Ref.No.P.27II of 24-II-37.

I have the honour to state that the above case has been adjourned to 13th December 1937. ~~xx~~

~~xxx~~

Submitted for perusal

11.12

I have the honour to be,
Sir,
Your most obedient servant,

A draft reminder is put up.

Public Prosecutor

WD 03485—GPB—900—30-8-37

25/1

1.3.38

1.3.38

Electrical Dept Case 3076/3188
(K1 and K2 lines) 5

General and Revenue Secretariat | File No. Law | of 193 | [App. F. III—2

Serial No.

GENERAL SECRETARY. 26 NOV. 1937 2935

From

The D.M. Bangalore Distt

M. 916/37-8 dt 25-11-37

State that there is no need for appointing a Spl Pp as the Prosecuting Inspector of the City Magistrate's court, Bangalore, will conduct the prosecution.

15) For perusal & orders with reference to para supra. The Pp has been asked to take an adjournment in the case & intimate the new date of hearing vide. H.B.

26/11/37

16) Reference para 11.

The District Magistrate's proposal may be approved

17) Gen. Secy 2nd 38/4

BKR 26.11.37

BKR 30.11

2nd December

18) SJR 2/12/ 2nd 3/12

BKR 4.12

bd with a dft for approval.

20) Done BKR 6.12

Electric Department Defalcation case 5204/1098

General and Revenue Secretariat

File No. Laws of 193

From
The Dist Magt
B'lore

Letter no. Jl. P-R. 444/37-38, dy 26-4-38
Forwards a copy of the report receive from the Superintendent of Police, B. City reporting that the cases have been withdrawn on 8-3-38.

2) Neither the D.C. nor the Supt of Police explain why the case were withdrawn and under whose instructions. In our letter dated 29-12-37 (Flag R in the linked file) instructions were given to withdraw the case as against Mr T. K. Nanjappa only As such it is not clear why the cases were withdrawn. If approved the DC will be enquired.

Submitted for orders.

2) Please invite the attention of the District Magistrate to our letter (flag R in the linked file) and ask him to furnish information whether the cases were withdrawn only against T.K. Nanjappa, or whether the cases were withdrawn against all the accused

2457/938

REV. SECRETARIAT 20 OCT 1938

No. S 87/38-39
Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore City, 19th Octr.1938 193

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE CITY.

To

The Additional Secretary to the Govt.of Mysore,
Bangalore.

SIR,

Electrical Defalcationcase. Doddiah and others.

I have the honour to state that the above case stan
-ds
adjourned to 28-10-1938 for examination of witnesses.

Submitted for perusal.

21/10

DKR
21.10

I have the honour to be,
Sir,
Your most obedient servant,

Doraswamy Iyer

Public Prosecutor,
Bangalore Dvn, Bangalore.

Electric Dept. Defalcation Case 6098

7

General and Revenue Secretariat

File No. of 193 [App. F. III—2

Law

Serial No.

If the cases were withdrawn only against T.K. Nanjappa and also he may also be asked to intimate the stage at which the cases now stand as against the other accused.

BKR
26.4.38

23) Subd with a draft for approval.

B
27/4

24) D She
BKR
27.4

To

The D. C.

B'lore

No P. 6004, dy 29-4-38

Requests whether the Cases were withdrawn only against Mr. T.K Nanjappa or against all

From

The Dist Magt

B'lore

Letter no JI. 1184/37-38, dy 18-5-38

States that the case against Mr. T.K. Nanjappa only was withdrawn, and that the cases against the rest are pending and that they have all been transferred to the file of the First Magt, B'lore for disposal.

25) P. U. D. is submitted for perusal.

B
23/5

26) BKR
23-5

El. Dept. Defalcation Case

2423

Law File No. of 1938.

General and Revenue Secretariat

From

The P. P.

~~District Magistrate~~

Bangalore

Letter no. 522/38-39, dt 18-10-38 states that in the circumstances pointed out, it would be more expedient to take up the trial in re: the Electrical Dept Defalcation Cases first in the Addl Sessions Court, and that if it is intended to do so Mr M. Srinivasa Murthy Advocate be entrusted with the Case.

27) As instructed a draft to the Dist Magt, Bangalore, forwarding a Copy of P. P's letter (P.V.D.) for opinion & it put up for approval

21/10

28) Government are not aware of the facts stated at places marked A B and C in the P.W.D.

29) If approved, a copy of the P.P's letter will be sent to the D.M. Bangalore for favour of his Views in the matter

BKR
21.10

Addl Secy)

TYPING SECTION
2 NOV 193
REVENUE DEPT.

30) C
31) Issue BKR 24.10

n/17/38

Issued no P. 19559, dt 25-10-38

Sd B
25-10-38

28 / 3994 3564

Electrical Dept Defalcation Case

General and Revenue Secretariat | File No. Law 53 of 1938. | [App. F. III—2

Serial No.

30) The Dist Magt, B'lore has not sent his reply in the matter so far in spite of a reminder. Even in his recent letter (Flag J), the P.P., B'lore has requested for appointing a Special P.P. for this Case. A D.O. reminder to the D.C. B'lore is put up for approval or orders.

31) Issue D.O.
12-11

Issued D.O. P 2365, dt 12-11-38

From

The Dt Magistte, Bangalore Dt
Letter no H. 281/38-9 dated 18-11-38

States that for reasons given he is of opinion that the Cases pending in the First Magistte's court may be ordered to be withdrawn and the Cases in the file of the Asst Sessions Judge will be proceeded with

Refer paras 28-31 of the notes Supra. I P.H.D I. for perusal and orders. The next date of hearing before the Asst. Sessions Judge is 28-11-38.

22/11/38

WD

10 Electrical Dept Defalcation Case. 1564

File No. 515 53 of 1938.

General and Revenue Secretariat

I M. H. Srinivasa murthi may be appd special P.P. to conduct the cases in the Addl. Sessions Judges Court as recommended by the D.C.

As regard to A6 T.K. Nanjappa, the Govt are entirely that ~~all~~ prosecution as against him may be withdrawn. The idea appears to be withdraw all pending cases against him. This would include the charges which are now pending in the A.S.J's Court & which were separated from the main charge which underwent trial. These charges in the A.S.J. Court may be ~~decided to~~ withdrawn

The D.C. recommends that the three Cases against the Mgr accd the Mysore Govt may be withdrawn. This may be considered in the Conclusion of the trial in the

Electrical Defn Cases
3564

General and Revenue Secretariat

Law File No. 53 of 1938. [App. F. III—2

Serial No.

To

The Dist Magte
B'lore

Letter no P2607, dy 25-11-38
Approves the appointment of Mr. H. Srinivasa Murty as special P.P. to conduct the prosecution in the case pending before the Asst Sessions Judge, B and passes instructions re: the withdrawal of the cases in the B'lore First Magte's Court.

(Copies to P.P. B'lore; D.G. of Police and Comptr to Govt)

From

The Pub Pr, B-lore Dn.
Letter No. 958 dated 5th Jany 1938.
Forwards a letter from the first-magiste, B-lore. in regard to the pendency El Depart Defalcation Cases in his court and solicits instructions.

Reference is invited to para (3) of Para 32 of the Rules supra. Orders have been communicated to the D.M. B-lore with regard to the question of withdrawal of the pending Cases in the first Magiste's court after the Conclusion of the trial in

12 Ell Depart defalcation 3564 V 4385
Cases

Law File No. of 1938

General and Revenue Secretariat

in the Asst Sess court. The result of the trial in the latter court is not yet known

For orders in regard to a reply to the Pp^r

7/1/39

next date of hearing 10-1-39

3) It is unfortunately ascertained that one accused was convicted in the Session Court & the rest were acquitted. The question whether the remaining cases should be proceeded with has to be examined with reference to this judgment In regard to the cases under reference the S. P. may perhaps advise us for a fortnight or more So that some decision may be arrived at meanwhile

Add^l Sec^y

3) The question of withdrawal of the other cases in the Magistrate's Court will be further examined after getting a copy of the judgment in the case before the A-S. J. The P. P. will be asked to

4300

El. Dept Defalcation Cases. 4618

General and Revenue Secretariat | File No. Laws 512 of 1938. | [App. F. III—2

Serial No.

Hg. date 10-1-39

40) A draft D.O. to the P. Pr., B'lore is put up for approval.

9/1/39

41) Issue Vg. by Sri. Hr.

Dstnd no P 3669, dt 9-1-39

Sri B (16/1/39) 9-1-39

42) A draft reminder is put up.

18/1

43) Issue BKR 18-1

[Not issued as the letter has just been received from the P. Pr. stating that the copy applied for has not yet been received.]

From
The P. Pr.,
B'lore.

Letter no Nil, dated 20-1-39
forwards a copy of the judgment in the Electrical department Defalcation Case on the file of the Asst Sessions Judge B'lore.

Reference para 37 supra

44) The judgment copy received from the P. Pr. is flagged V and is submitted for perusal and orders.

23/1

45) References paras 32 (3) and 37

TYPING SECTION ... GEN. & REV. SECTT.

WD 0544—GPB—30,000—2-9-83

Electrical Department Defalcation Cases 1618 D

General and Reven
Secretariat

L File No. aw of 193 .

4a) The 1st accused Doddaiah has been convicted and sentenced to three months Rigorous imprisonment. The other three accused have been acquitted.

4b) The result of both the cases is that the principal offenders Doddiah and Ramachandraiah have been punished for their offence. Regarding Veerappa and Thyagarajanaiah this different Addl. Sessions Judge has held that they are not guilty. One other accused Doddegowda is dead. The 6th accused Nanjappa was acquitted in Sessions Case 5 of 36-36 and the remaining cases against him were already ordered to be withdrawn.

4c) In these circumstances, it seems unnecessary to press the other cases against the remaining four accused (original Nos. 1, 3, 4 and 5) and the other pending cases in the Magistrate's Court therefore be ordered to be withdrawn

Electrical Department Defalcation Case 1/15--

General and Revenue Secretariat

File No. Law 53 of 1938. [App. F. III—2

Serial No.

FILE
FIRST COUNCIL
JAN 24 1939
5909

and the former has been convicted in the second case. In both the cases, the other accused have been found to be not guilty and acquitted. This is the view taken by two different A.S.J's.

4) The Dt. Magte has recommended that the other charges be withdrawn against all the accd. The facts in these cases are stated to be somewhat similar, & it is submitted that a Conviction can be secured against the other accd even if the cases are proceeded with. The charges may be withdrawn

1st Member

C
23/1/39

BKR
24.1.39

5) DRM
24/1/39

Dewan)

G 25/1
BKR
26.1.39

5) DRe
16.1.39

BKR
27.1.39

A draft to the D.R., B'lore is submitted for approval

5/ DRM
27/1

BKR
27.1.39

WD 0544—GPB—30,000—2-9-83

Issued vide P 4038, dt 28.1.39

Electrical Debt Defalcation Case

Serial No.

Electrical Defalcation Case.

On page 30 of his judgment the Assistant Sessions Judge, Bangalore, after drawing attentic to a number of cases in which Ramachandrachar's private banking account received large credits immediately after the forged bills had been paid, remarks as follows:-

"The conclusion anyhow is forced upon one that A.1 (the accused contractor) was seeking the help of A.4 (Ramachandrachar) to have these bills tampered with in this manner much to the loss of the Government and the profit of himself and the contractors out of false claims, and that as a remuneration for his services A.4 was getting a share of the illegal gains which were being credited in his bank account as shown above."

Yet in the end the Sessions Judge refused to convict A.4 (Ramachandrachar. Clerk in the Electrical Department.)

The reasons for this acquittal are not to my mind clear. But from the departmental point of view, I am afraid, I must entirely agree with the remarks of the Sessions Judge quoted above. Unfortunately as the Judge has said he is innoc we cannot say he is guilty of fraud. Even howe if he is not guilty of fraud he was the ~~senior~~ official ~~was~~ primarily concerned with checking that no fraud occured. The least that can be s about him is that he has lamentably failed in h

P.T.O.

duty, with the result that the Government have lost a great deal of money. I consider, therefore that he should not be retained in service in the Electrical Department any longer.

he has been convicted for the offence of forgery in the first case. In the second case he has been acquitted of abetment of uttering a forged document. Under para 234 in the case of General Circulars & Standing orders a person convicted of the offence of forgery is liable the appropriate punishment is dismissal

C.E. 3/3

BKR 3.3

Will file work be sent to Executive South now?

Noted 3/3

Not necessary Mayilu

files Home S

BKR 4/3

Office of the Public Prosecutor,
Bangalore Division, Bangalore,
dated 19-11-1937
Do.

From G. S. Doraswami Iyer. Esqr, B.A. B.L.
Public Prosecutor, Bangalore Division, Bangalore.

To

The General Secretary,
to the Govt. of Mysore, Bangalore.

Sir.

I have the honour to respectfully invite attention to Government Orders No. P190-5 Law 203-35 of 6-7-36 & P8113-6-Law 203-35-4 of 6-6-36 directing me to prosecute the cases arising out of the defalcation in the Electrical Department in K 1 and K 2 lines and R1 and R2 lines and also to orders 2415 - 9 Law 70-37-2 dated 8-11-37, directing me to Prosecute the Bangalore Disturbances cases. As the latter cases are posted before the Special Magistrate, who is proceeding with the cases from day to day, it is not possible for me to conduct the Prosecution in the Electrical Department cases which are posted before the learned City Magistrate on the 25th instant.

A complicated case of breach of trust is also being conducted by me before the Justice of Peace in which more than 1000 documents are filed and which is an important case. In addition to this a sedition case before the District Magistrate, Bangalore and Sessions cases before the Court of Sessions have to be conducted by me.

Under the circumstances I request that the Electrica Department cases be entrusted to a special Public Prosecu or to the Prosecuting Inspector of Police. It will not b proper to ask for an adjournment in the City Magistrate' Court or in the Special Court as too many adjournments ha been taken.

The appellate Courts judgment in one of the cases has already been sent and the opinion of the learned Gov Advocate has also been obtained in the matter(C.L.No. P. 272-212 -36-2 dated 15-7-1937). I request that order may kindly be passed immediately regarding these cases.

I have the honour to be,

S i r,

Your most obedient ser

D Devanna

Public Prosecutor

Bangalore Dvn.Banga

Appendix F G—1]

SUBJECT .....

.....

.....

Section Law

File No.

Serial No.

No. P 2711

Diary No. of letter replied to.....

To

The P. Pr

Bllore

General and Revenue Secretariat

( )

the *193*

Subject :— Electrical Dept.

Defalcation Cases — K. and K.

before the city Kapl, Bllore

Date of issue 24.11.37

Sir,—

With reference to yr

Signed by Mr. BKR

letter no. P 105-8/37-38, date

19th Nov: 1937 in regard to

above case, I am directe

to request you to obtain

fortnight's adjournment in

case pending orders of Govt

in the matter.

List of enclosures.....

Next date of hearing may

Copied by

kindly be intimated.

I have etc:

Examined by.....

BKR

For Genl Secy

WD 0521—GPB—30,000—12-3-37

Appendix F G—1]

Immediate

SUBJECT .....

.....

.....

Section Law

File No.

Serial No.

No. P2712

Diary No. of letter replied to.....

To

The Dist Mo

B'lore

General and Revenue Secretariat

( )

the *193*

Sir,

I am directed to forward herewith a copy of letter no. P 105-87/37-38, dated 19th Nov: 1937 from the P. P., B'lore, Requesting in the circumstances pointed at therein, that the Electrical Dept Defalcation case (K1 and K2 lines) pending before the City Magt, Bangalore, be entrusted to a Special P. P. or to the Prosecuting Inspector of Police, and to request you to furnish your Opinion

Date of issue 24.11.37

Signed by Mr MKR

List of enclosures.....

Copied by .....

Examined by.....

WI

in the matter

An urgent early reply

is requested

Yours [illegible]

[illegible]

For [illegible]

3188

In all future communications please quote
No. J1-716/37-38
Enc.

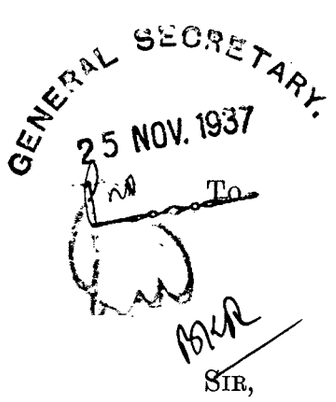
Tel. Address.—"DEPCOM"
Post Box No. 34.

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the....25th Novr.....193 7

FROM

H. V. Ramaswami, Esq., M.A.,B.L.,
District Magistrate,
Bangalore District.



To

M. Venkatesa Iyengar, Esq., M.A.,
Secretary,
to the Government of Mysore.
General Department, Bangalore.

SIR,

Subject:—

(Jr. A.)

With reference to your letter No.P.271 dated 24th November 1937, forwarding a copy of the letter from the Public Prosecutor and requesting my opinion as to who may be entrusted with prosecution work in the Electrical Department Defalcation case (K.1 and K. 2 lines) pending before the City Magistrate, Bangalore, I have the honour to state that there is no necessity for appointing a Special Public Prosecutor and that the Prosecuting Inspector of the City Magistrate's Court, Bangalore will conduct prosecutio in that case.

I have the honour to be,

S i r,

Your most obedient servant,

H. V. Ramaswami
District Magistrate,
Bangalore District.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat

No. P2906 IMMEDIATE. Dated, Bangalore, 6th December 1937.

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The District Magistrate,

BANGALORE.

Sir,

Subject:- Electrical Department Defalation Case (K 1 and K 2 lines) before the City Magistrate, Bangalore.

With reference to your letter No.jl-716/37-38, dated 25th November 1937 stating that there is no necessity for appointing a Special Public Prosecutor in the above case and that the Prosecuting Inspector of the City Magistrate's Court, Bangalore will conduct the prosecution in that case, I am directed to state that the Government approve of your proposal and to request you to issue instructions accordingly.

I have the honour to be,
Sir,
Your most obedient servant,

Sd.M.Venkatesa Iyengar.

D.P2907-9 96.12-3) General Secretary to Government.

Copies to (1) the Public Prosecutor, Bangalore with reference to his letter No.P.105-8/37-38, dated 19th Novr.1937.
(2) the I.G. of Police.
(3) the Comptroller to Govt.

Appendix F G—1]

Immediate

SUBJECT .....

.....

.....

Section Law

File No.

Serial No.

Diary No. of letter replied to.....

No. P2906.

To

The Dist Magt

Bangalore.

General and Revenue Secretariat

( )

the *193*

Subject:— Electrical Department defalcation Cases (K1 and K2 lines) before the city Magt, Bangalore

Date of issue 6.12.37

Sir,

Signed by Mr. BKR.

With reference to your letter no. JI—716/37-38, dated 25th Nov 1937 stating that there is no necessity for appointing a special Public Prosecutor in the above case and that the Prosecuting Inspector of Police the city Magistrate's Court, Bangalore will conduct the prosecution that Case, I am directed

List of enclosures.....

Copied by 6/12/37

Examined by.....

to state that the Govt. approve
of your proposal and to request
you to issue instructions accordingly

I have the

BKR

for Genl Secy

o.P 2907-9 & 2961

(1) the P.-P. B'lor with
reference to his letter
no P 105-8/37-38, dated 19th Nov 1937

(2) the I. G. of Police

(3) the Comptr. to Govt

3281

V 5284 ..37

1768/37-38

Office of the Public Prosecutor,
Bangalore Dvn, Bangalore, dated 4/3/38

From.

G.S.Doraswami Iyer, Esq, B.A. B.L.,
Public Prosecutor, Bangalore Dvn, Bangalore.

To

GENERAL SECRET.
7 MAR 1938

The General Secretary to
the Government of His Highness The Maharaja
of Mysore, Bangalore.

Re. Electrical Department Defalcation case
on the file of the City Magistrate,
Bangalore.

--

Sir,

I have the honour to acknowledge letter No.P. 4956 dated 1st March 1938, and to state that from 21-11-37 the Prosecuting Inspector is in charge of the cases, as directed by the City Superintendent of Police, by his letter, copy of which is enclosedherewith, and as I have since then been engaged in conducting the Bangalore Rioting Cases. Further Progress may kindly be ascertained from the City Superintendent of Police, Bangalore City.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor,
Bangalore Dvn, Bangalore.

Issued No P 516
dt 15-3-38

Mysore Police Department.

From. U. K. Somappa, Esq, B.A.
Superintendent of Police, Bangalore city.

To

The Inspector-General of Police
in Mysore, Bangalore.

dated 24th Novr. 1937.

Sir,

With reference to Chief Officem Memo No.C.530/37 -38 dated the 21st Novr.1937 forwarding copy of letter No.P. 105-8/37-38 dated the 20th November, 1937 from the Public Prosecutor, Bangalore Division, regarding the prosecution to be conducted in the Electric Depar tment cases, I have the honour to report that I have this day , directed the Prosecuting Inspector, City Magistrate 's Court, to conduct the prosecution in these cases. He has also been asked to appear before the Court and taken an adjournment to-morrow only to enable him to go through the records.

The original memo under reference is herewith returned.

I have the honour to be, Sir,
Your most obedient servant,
sd/- U.K. Somappa,
Superintendent of Police, Bangalore city

copy of the above is submitted to the District Magistrate, Bangalore for favour of approving the above arrangement.

sd/ U.K.Somappa,
Superintendent of Police,
Bangalore City.

CB.447/37-38/

Copies of the above are forwarded with compliments to the Public Prosecutor, Bangalore, dvn, for favour of information

Copy to the Prosecuting Inspector, Bangalore City for information needful and report.

sd/- U. K. Somappa,
Superintendent of Police, Bangalore city.

Copy

In all future communications please quote—
No. J.L.-P.R. 444/37-38.
Enc. One.

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated Bangalore, the 20th April 1938.

6098/37
P

FROM

Abdul Aziz Khan, Esq., B.A.,
District Magistrate,
Bangalore District.

To

M. Venkatesa Iyengar, Esq., M.A.,
Secretary to the Government of Mysore,
General Department, Bangalore.

GENERAL SEC. 22 APR 1938

SIR,

Subject :

With reference to your letter No.P. 5144, dated 15th March 1938, calling for a report regarding the progress made in the Electric Department Defalcation case, I have the honour to forward herewith for favour of information, a copy of the report received from the Superintendent of Police, Bangalore City.

I have the honour to be,
Sir,
Your most obedient servant

A.A.Khan

District Magistrate,
Bangalore District.

Letter No.C.B.701/37 dated 14th March 1938 from the Superintendent of Police, Bangalore City, to the District Magistrate, Bangalore District.

-- -- --

Sub:- Withdrawal of certain cases pending against Mr.T.K.Nanjap of the Chief Electrical Engineer's Office.

-- -- --

With reference to your Memo No.Ji-508/37 dated 4-1-1938 regarding the above subject, I have the honour to state that the cases which had since been transferred to the Special 1st Class Magistrate's Court, are reported to have been withdrawn on 8-3-38.

-- -- --

" Copy "

District Magistrate,
Bangalore District.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P6004

Bangalore, Dated, ~~29th April~~ *193*8

From

The General Secretary to the Government of His Highness the Maharaja of Mysore.

To

The District Magistrate,
Bangalore.

Subject - Electric Department Defalcation case.

Sir,

With reference to your letter No.Jl-P.R. 444/37-38 dated 20th April 3 on the above subject, I am directed to invite your kind attentic to this office letter No P.3326, dated 29th December 1937, and t request you to give information whether the cases were withdrawn only against Mr. T.K.Nanjappa, or whether the cases were withdra against all the accused. If the cases were withdrawn only again Mr. T.K.Nanjappa, the stage at which the cases now stand as agai the other accused may also be kindly intimated.

An early reply is requested.

I have the honour to be,

Sir,

Your most obedient servant,

for General Secretary to Government.

Appendix F G—1]

SUBJECT .....

.....

.....

Section Law

File No.

Serial No.

No. P 6004

Diary No. of letter replied to.....

To

The First Magh

Bllore

General and Revenue Secretariat

( )

the *193*

Subject :- Electric Department.

Defalcation Case.

Date of issue..... 29.4.38

Sir,

Signed by ..... mr BKR.

With reference to your letter no J.I. P.R. 444/37-38, dated 20th April 1938 on the above Subject, I am directed to inlite your kind attention to this office letter no P. 3326, dated 29th Dec: 1937, and to Request you to give information whether the cases were withdrawn only against Mr T. K. Nanjappa, or whether the cases were withdrawn against all the accused

List of enclosures.....

Copied by .....

Examined by.....

If the Cases were withdrawn only against Mr. T.K. Nanjappa, the Stage at which the Cases now stand as against the other accu may also be Kindly intimated

An early Reply is requested

6723/37 P 18

In all future communications please quote
No. ..Jl.1184/37-38.
Enc.

Tel. Address.—"DEPCOM"
Post Box No. 34.

**OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT**

Dated Bangalore, the.....18th..M..a..y.....*1938*.

FROM

ABDUL AZIZ KHAN, ESQ., B.A.,
District Magistrate,
Bangalore District.

To

M. VENKATESA IYENGAR, ESQ., M.A.,
General Secretary to the Government
of Mysore, B a n g a l o r e .

GENL 19 MAY 1938 SECT

Sir,

Subject:—

Flag M

With reference to your letter No.P.6004 dated 29th April 1938, calling for certain information regarding the Electric Department Defalcation cases, I have the honour to state that in pursuance of the Government Order communicated to me in your letter No.P.3326 dated 29th December 1937, the cases against Mr. T.K. Nanjappa only were withdrawn. The cases regarding the rest of the accused are pending and they are all transferred to the file of the First Magistrate, Bangalore, for disposal. Regarding the stage at which these cases now stand it is learnt that proceedings have not commenced in the First Magistrate's Court, for want of records of the original case which are ascertained to have been submitted to the High Court in connection with the Revision Application filed by the 4th Accused D. Ramachendrachar, which was very recently disposed of by the High Court. In this connection it may be recalled that the Government were pleased to order the filing of an appeal under Section 418 Criminal Procedure Code against the 1st Accused Doddiah and the Appeal was entertained by the High Court and is pending trial. The lower court records may be required by the High Court for reference in connection with the said Appeal and in these circumstances, it is very likely that the proceedings in the other cases pending trial before the First Magistrate, Bangalore, may not begin until the records are returned by the High Court.

Leg R.

I have the honour to be,
Sir
Your most obedient servant,

A Aziz Khan

2423 P 38

No. S-2 2/38/39

Enc.

H.L. & REV. SECRETARIA
19 OCT. 1938
PROTECTION BRANCH.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.
DISTRICT OFFICE BUILDINGS,

Bangalore City, 18th Octr. 1938 193

Confidential

Law 53-38-1

From

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

To

The Additional Secretary to Government of Mysore,

BANGALORE.

Sir,

Re. Electrical Department Defalcation Case

I have the honour to invite your ~~XX~~ kind attention to the charge sheets placed in connection with the above cases and to the Government Orders No.P. 8600/80/Law 203-35-6 dated 27th June 1936 and G.O.No.P.190 Flag E -5 -Law ,203 -35-11 dated 6-7-1936 and G.O.No.580 Flag F -5 -Law 203 -35 and G.O.No.7867 Flag D -71 -Law 203-35-2 and P. 8113 Flag G -Law - 203 -35-4 -14 to state as hereunder:-

In pursuance of the aforesaid Government orders several charge sheets were placed against 6 accused persons before the learned City Magistrate,Bangalore. One Charge sheet was pressed and the evidence let in that case. The evidence in all the other cases is exactly similar. Some of This evidence was also adduced in the case which was proceeded with under Section 14& 15 of the Evidence Act. The learned City Magistrate recorded the entire evidence in full and committed the accused in C.C.No.1095 of 35/36 and he framed charges under ..~~456~~ 466., .466, and 109, 468,read with 471 and 468 read with 109 ,420 and other sections.

In order to avoid a possible misjoinder the case in the Sessions (B.S.C.5 of 36/37) was confined to only certain charges and the trial in that Court proceeded only under

those heads of charge upon an application filed by the prose-
cution.

The other charges against the accused were reserved.

The learned Assistant Sessions Judge convicted Accused1 and Accused 4 ~~in~~, Doddiah and Ramachandrachar.

An appeal was preferred to the District Judge by the Accused persons who were convicted and the Additional District Judge confirmed the conviction of A4 and acquitted A1, in Cr.A.263 of 36-37 and Cr.A.264 of 36-37.

Although a recommendation was made for an appeal against the acquittal order of the Assistant Sessions Judge. the authorities thought it not necessary to prefer an appeal

But against the order of ~~conviction~~ of A1, passed by the Additional District Judge an appeal was preferred and the appeal was allowed and A1, convicted by the High Court.

As regards the other charges, upon which the learne

for consideration whether the trial in the Session Court should proceed or the ~~enquiry~~ enquiry in the Magistrate's Court should be proceeded with.

It is respectfully suggested that the Trial in the Assistant Sessions Court be first taken up, as it would be more expedient to do so, and as the evidence there is already collected and the enquiry complete instead of starting an enquiry which will involve considerable time, delay and expenses and inconvenience to numerous Officers Early instructions in the matter are respect fully solicited ~~in the matter~~. If It is intended to continue the Trial in the Assistant Sessions Court; Mr.H. Sreenivamurthy, Advoc may be entrusted with the case as he has been instructed in the matter and as I have numerous Sessions and Government cases pendin and as I have in addition to conduct the prosecution in the Medica Department defalcation case which has to go on from day to day. The cases are posted to the 28th inst.

I have the honour to be,

Sir,

Your most obedient servant,

Public Prosecutor,

Bangalore Division, Bangalor

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 21st October 1938

No. P 1959 Laws 3-38-2

From

The Additional Secretary to the Government of His Highness the Maharaja of Mysore.

To The District Magistrate,
Bangalore.

Sir,

Electrical Department Defalcation Case.

I am directed to forward herewith a copy of letter No.522/38-39, dated 18th October 1938 from the Public Prosecutor, Bangalore on the above subject and to request you to furnish your opinion in the matter.

An early reply is requested.

I have the honour to be,
Sir,
Your most obedient servant,

for Additional Secretary to Govt.

Attachment Description Type

I am attached to the following Description Type

Appendix F G—1]

SUBJECT Immediate & Confidential

Section Law

File No. 53-38

Serial No. 12

Diary No. of letter replied to .....

No. P1959/Genl.

To

The Distt Magte

Bellary.

General and Revenue Secretariat

( )

the *193*

Date of issue 25.10.38

Signed by Sr. B.R.R.

Subject:- Electrical Department Defalcation Case.

Sir,

I am directed to forward herewith a copy of letter no. 522/38-39, dated 18th Oct: 1938 from the P.A. Bangalore on the abov Subjec and to request you to furnish your opinion in the matter.

An early reply is requested.

I have etc:

BRR

for Addl. Secy.

List of enclosures.....

Copied by.....

Examined by.....

78—GPB—30,000—4-3-38

2870/38

No. 724/38--.

Enc. .....

REV. SECRETARIAT
7 NOV. 1938
SECRETARIAT

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION.
DISTRICT OFFICE BUILDINGS,

Bangalore City, 5th November 1938 193

Law 53-38-3

From

G. S. DORASWAMY IYER, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore Division, Bangalore City.

To The Additional Secretary to the Government of Mysore,
BANGALORE.

Sir,

Electrical Department Defalcation case.

In continuation of my letter No.7??. dated 4-11-38 I have the honour to state that I am engaged in conducting the Medical & Department case which is proceeding from day to day and as such I will be unable to conduct the above case. I request that a special Public Prosecutor be kindly appointed to conduct the Electrical Department case. In this connection I have the honour to bring to your kind notice that a Public Prosecutor had been appointed long ago and I have also addressed him in the matter as to what steps he has taken.

One of the accused Ramachandra Rao who was on bail throughout the last sessions case and who has served his sentence of imprisonment has been released on bail & after hearing me.

I have the honour to be,
Sir,
Your most obedient servant,

G. S. Doraswamy Iyr
Public Prosecutor.

7/11
7-11-38

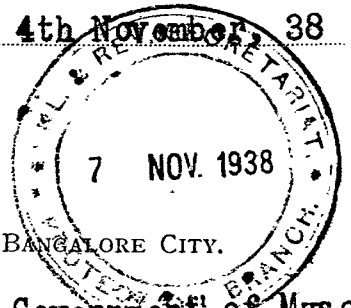
Sub-S.
D.P. B'lore has not sent his report
A reminder was issued on 5-11-38.
Report may be awaited
8/11

2869/38

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

No. 722/38-39.
Enc. 2

Bangalore City, 4th November, 38 193



FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE CITY.

TO

The Additional Secretary to the Government of Mysore,
BANGALORE.

SIR,

Electrical Department Defalcation case.

I have the honour to forward herewith copies of the applications filed by me in the above case.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

Submitted for perusal

In the Court of the ~~Second City~~ First Magistrate
Bangalore.

C. C. No. of 1938 - 1939

Government Vs Doddiah and others.

The complainant produces herewith a copy of the application filed before the Court of the learned Assistant Sessions Judge and prays that these cases may be kept pending till the Sessions Case is disposed off by the Assistant Sessions Court.

In the court of the Asst.
Sessions Judge
Bangalore

B.S.C. of 36-37

Govt. vs Doddiah
& ors.

The complainant prays
that the charge which
remained over & which was
not tried in B.S.C. 1 of 36-37 be
taken up & proceeded with
as a separate case

S. Doraswamy Iyer
Public Prosecutor

Bangalore
31.11.38.

C.O.S.

S. Doraswamy Iyer

2988 p 838

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

No. 5-9
Enc.

BCR 12/11

Bangalore City, ... 1938.

Confidential

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE CITY.

REV. SECRETARIAT
12. NOV. 1938

TO

The Additional Secretary
to Government of Mysore
Bangalore

SIR,

Clerical Department
Case

I have the honour to forward herewith a copy of my confidential note to the District Magistrate Bangalore for information of Government. The Cases before the Magistrate are posted to 18.11.38.

I have the honour to be
Your most Obedient Servant
G. S. Doraswamy Iyer

Sir,

Electrical Department Defalcation cas

In continuation of my letter in this connec
the honour to invite your kind attention to my pre
written on 21-4-1937 No.O.A. 22, where all the fac
stated.

In these cases several charge sheets were f
Inspector Division in respect of the offences connected
with these cases. I believe seven charge sheets were filed
Out of these six are pending in the Court of the Special First
Class Matistrate, Bangalore. Some of them relate to the offences
committed in the Mysore-Bhadravathi line and some to the
K1 K2 lines

One charge sheet was first taken up before the learned
City Magistrate, Bangalore in C.C.No.1095 of 35-36 and proceeded
with as according to the prosecution all the accused were
involved in that case. There were six accused persons
put up before the learned Magistrate for offences under
Section 420, 468, 477 A, and 109 I.P.C.

Sixty Six witnesses were examined for the Prosecution. The learned Magistrate framed charges under Section 420 71 etc., against the accused and under Section 213 committed all the six accused for trial to the Court of essions. The Sessions Judge transferred the case to he Court of the Assistant Sessions Judge, Bangalore, wh took up the cases as C.C. 5 of 36 -37 The learned Magistrate had framed 5 charges against A1, A2, A3, un Section 420, 471 read with 466, 466, and 109, 466 ,468 read with 471. and 468 read with 109 He had framed charges against A4 under sections 466. 420 and 109, 47

The second accused is dead.

The first accused is undergoing imprisonment and the 4th has been enlarged on bail as reported.

As regards the charges against A6 remaining over in the Assistant Sessions Court, it is a matter to be considered whether they should be withdrawn or not in the light of the order referred to and Section 215 of the Cr.P.C. under which a commitment can only be quashed by the High Court.

The evidence in all the cases are almost similar.

Instructions are now solicited as regards the conduct of the cases in respect of the other charges in the Sessions Court and the other charge sheets in the Magistrate's Court.

I have to invite your kind attention to the fact that Mr. H.Srinivasa Murthy was appointed Special Public Prosecutor on a reference by the District Superintendent of Police, Bangalore City.

As I am now engaged in conducting the Medical Stores Defalcation cases, orders are solicited in the matter.

G. S. DORASWAMY IYER, B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE CITY.

765/38-39
Encl one.

3505/38

BANGALORE CITY.

Dated, 16th Novr.1938

To

The Additional Secretary to the Government
of H.H.The Maharaja of Mysore,
Bangalore.

Sir,

I have the honour to enclose herein a letter addressed to Mr. H.Srinivasa Murthy,Advocate, - Bangalore,for your information.

I have the honour to be,
Sir,
Your most obedient servant,

D Doraswamy Iyer

Public Prosecutor,
Bangalore division,
Bangalore.

16th Novr.1938

To

The Additional Secretary to the Government
of H.H.The Maharaja of Mysore,
Bangalore.

Sir,

I have the honour to enclose herein a letter addressed to Mr. H.Srinivasa Murthy,Advocate, - Bangalore,for your information.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor,
Bangalore division,
Bangalore.

No. 814/2838
Enc.

Office of the Public Prosecutor,
Bangalore Division, Bangalorecity,
Dated 15th November 1938.

From :-

G. S. Doraswami Iyer, Esqr, B.A.B.L.,
Public Prosecutor, Bangalore Dvn, Bangalorecity.

BKA 25-11

To

H. Sreenivasa Murthy, Esq.,
Advocate, Bangalorecity.

Sir,

Electrical Department Case.

I have the honour to invite your kind attention to the fact that the above case is posted to the 28th instant, before the learned Assistant Sessions Judge. A propose of our conversation in this connection I hope you will be ready to conduct the same on that day. Any assistance from me is always at your disposal.

I have the honour to remain,
S i r,
Your most obedient servant,

Sd. G.S Doraswamy Iyer
Public Prosecutor,
Bangalore Dvn. Bangalore.

Copy submitted to the Additional Secretary to the Government of Mysore Bangalore for information.

G Doraswamy Iyer

REV. SECRETARIAT
21. NOV. 1938

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated, Bangalore, the 18th November *193* 8.

Law 53-38-4

22/11/38

FROM

K. Subba Rao, Esq., B.A.
Offg. *District Magistrate,*
Bangalore District.

To

Subramanya Iyer, Esq., B.A., B.L.
Addl. *Secretary,*
to the Government of Mysore.
Bangalore.

SIR,

Subject:— Electrical Department Defalcation Case

--:oOo:--

With reference to your letter No.P. 19 53-38 dated 25-10-1938 enclosing a copy of letter dated 18-10-1938 from the Public Prosecutor, Bangalore Division, on the above subject and asking for my opinion, I have the honour to state as follows:-

2. The Public Prosecutor's letter refe to above and his subsequent letter dated 10th November 1938 (copy enclosed) explain the situation. The Assistant Sess Judge has sent a notice to this office stating that the tri of the accused on charges reserved during the first trial has been posted to the 28th instant. As Mr. G.S. Doraswa Iyer, Public Prosecutor, is engaged in the conduct of the Medical Stores Defalcation cases in the City Magistrate's Court, Mr. H. Srinivasa Murti has been asked to appear in t Court of the Assistant Sessions Judge and conduct the prosecution as ordered by my predecessor in a memo dated 25th November 1937. This arrangement may be kindly approved.

3. Of the accused who were committed to the Sessions in the above case, A2 - Patel Sidde Gowda has since died. In General Secretary's letter No.T. 3326 dated 29-12-1937, Government have ordered that all pending cases against the A6- T.K. Nanjappa should be withdrawn. On the

trength of this letter, the charges against this
ccused in the six cases pending inethe Court of the
irst Magistrate, Bangalore, were withdrawn and the
act reported to Government. The Public Prosecutor
eels a doubt whether this letter authorises the with
rawal of the charges reserved by the Assistant Sessions
udge, in so far as this accused is concerned.
equest the favour of definite orders of Government
n the point, so that suitable instructions may b
given to the Special Public Prosecutor before the
rial commences on the 28th instant.

4. As suggested by the Public Prosecutor
he trial of the remaining accused, A1 - Doddiah
3 - Veerappa, A4 - Ramachendrachar and A5 - Suryanarayana
ao, on the charges reserved by the Assistant Sessions
Judge will be proceeded with

Prosecutor tells me that on account of the delay in the trial, it has now become somewhat difficult to get at some of the witnesses who have been cited for the prosecution. Considering all the circumstances, I am of opinion that the cases pending in the First Magistrate's Court may be ordered to be withdrawn. I expect the 1st and /a 4th accused, and perhaps, the 3rd and 5th accused al to receive adequate punishment in the trial that will take place in the Assistant Sessions Court on the 28th instant, and in this way, I believe, the ends of justice will be amply met. It seems unnecessary to pressethe charges against them in the other cases.

I have the honour to be,

S i r,

Your most obedient servant,

K Veeraraghavan

Offg. District Magistrate,

Letter No.744 dated 10-11-1938 from the Public Prosecutor, Bangalore Division, to the Deputy Commissioner, Bangalore Distri

--:oOo:--

Electrical Department Defalcation

In continuation of my letter in th connection and apropos of our discussion, I the honour to invite your kind attention to previous letter written on 21-4-1937 No.C.A. where all the facts have been stated.

In the cases, several charge sheet were filed by the Inspector "A" Division in respect of the offences connected with these cases. I believe seven charge sheets were filed. Out of these, six are pending in the Court of the Special First Class Magistrate, Bangalore. Some of them relate to the offences committed in the Mysore - Bhadravathi line and some to the K1 K2 lines.

One charge sheet was first taken up before the learned City Magistrate, Bangalore, in C.C. No. 1095 of 35-36 and proceeded with as according to the prosecution all the accused were involved in that case. There were six accused persons put up before the learned Magistrate for offences under Sec. 420, 468, 477 A, and 109 I.P.C. Thirty six witnesses were examine for the prosecution. The learned Magistrate frame charges under Section 420, 471 etc., against the accused and under Section 213 committed all the six accused for trial to the Court of Sessions. The Sessions Judge transferred the case to theCourt

of the Assistant Sessions Judge, Bangalore, whc up the cases as B.S.C. 5 of 36-37. The learned Magistrate had framed 5 charges against A1, A2, under Section 420, 471 read with 466, 466, and 466, 468, read with 471 and 468 read with 109. had framed charges against A4 under Sections 466 420 and 109, 471 and 109, read with Sections 46 468, 471 and 109 read with 466 I.P.C. As again A5 and A6, he had framed charges under Section 4 and 109, 468 and 109, 466 and 109 471/109 and 46 read with 466 and 109 I.P.C.

In the Court of the Assistant Sessions the trial was confined to a few charges only. A1 to A3 were charged with 420 I.P.C. A4 to A with abetting the said offence, under 420/109, a with 468 I.P.C. An additional charge under Sec 477 A was added. Thirty six witnesses were ex by the Prosecution and 182 exhibits marked. defence filed 102 exhibits and examined three wi The first and fourth accused were convicted; A two years and A4 for two years.

The accused appealed and the learne Additional District Judge confirmed the sentence on A4 and acquitted A1.

The prosecution suggested an appeal against the acquittal of the rest By their order No.P. 272 dated 212-36-2 dated 15-7-1937, the Government did not approve of the idea. But the acquittal order against A1 was appealed against and the High Court allowed the appeal.

Now, the other charges against the accused remain over in the Court of the Assistant Sessions Judge and an application has been filed to dispose them off.

The Government by an order directed the withdrawal of the cases against A6, and in accordance therewith the cases againt him in the Magistrate's Court were withdrawn and the fact reported.

The second accused is dead.

The first accused is undergoing imprisonment and the 4th has been enlarged on bail as reported.

As regards the charges against A6 remaining over in the Assistant Sessions Court, it is a matter to be considered whether they should be withdrawn or not in the light of the order referred to and Section 215 of the Cr. P.C. under which a commitment can only be quashed by the High Court.

The evidence in all the cases are almost similar.

Instructions are now solicited as regards the conduct of the cases in respect of the other charges in the Sessions Court and the other charge sheets in the Magistrate's Court.

I have to invite your kind attention to the fact that Mr. H. Srinivasa Murthy was appointed Special Public Prosecutor on a reference by the District Superintendent of Police, Bangalore City.

As I am now engaged in conducting the Medical Stores Defalcation cases, orders are solicited in the matter.

" Copy "

K. Veeraraghavan

Offg. District Magistrate,
Bangalore District.

41

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

No. P2607 Law 53-38-5 *Bangalore, dated* 25th November 1938

FROM

'dditional
The Secretary to the Government of
His Highness the Maharaja of Mysore.

To

The District Magistrate,
Bangalore.

Subject:- Electrical Department Defalcation cases.

SIR,

With reference to correspondence ending with your letter No.H1.281/38-39 dated 18th November 1938, on the above subject, I am directed to state that in the circumstances reported by you, Government approve of the arrangement made in appointing Mr. T. Sreenivasamurthy, Advocate, Bangalore, as special Public Prosecutor to conduct the prosecution on behalf of Government in the case pending before the 'ssistant Session Judge, Bangalore.

In regard to the withdrawal of the charges against 16-T.K.Nanjappa, I am to state that the Government Order communicated in General Secretary's letter dated 20-12-1937 related to all the pending cases against him, including the charges pending in the Assistant Sessions Judge's Court, and consequently charges against K.....Nanjappa in that Court may also be withdrawn.

As regards the withdrawal of the cases against the other accused pending in the First Magistrate's Court, Bangalore I am to state that the question may be considered after the conclusion of the trial in the court of the ssistant Sessions Judge, Bangalore.

Judge, Bangalore.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- C. Subrahmanya Iyer,

Additional Secretary to Government.

... .R.6.

Memo No. P 2608-10 Dated, 25th November 1938.

Copy of the above, is forwarded, with compliments,

to the (1) The P.M. Bangalore
(2) The D.G. of Police.
(3) The Comptr. to Govt.

By Order,

BKR

for Additional Secretary to Government.

Immediate

Appendix F G—1]

SUBJECT .....

.....

.....

Section Laws

File No. 53-38

Serial No. 5

Diary No. of letter replied to .....

No. P2607

To

The Dist. Magt.

Bangalore

General and Revenue Secretariat

( )

the *193*

Subject:- Electrical Department Defalcation Cases.

Date of issue 25/11/38

Signed by Mr. BKR

Sir,

With reference to correspondence ending with your letter no. JI-281/38-39, dated 18th Nov: 1938 on the above subject, I am directed to state that, in the circumstances reported by you, Govt. approve of the arrangement made in requesting appointing Mr. H. Sreenivasa Murthy, Advocate, Bangalore, as Special P.P. to conduct

List of enclosures.....

Copied by .....

Examined by.....

on behalf of Govt
the prosecution / in the case pending
under consideration, before
the Assistant Sessions judge
B'lore

In regard to the
withdrawal of the charges against
A.6 - T.K. Nanjappa, Govt are
pleased to direct that the
charges as against T.K. Nanjappa
which are now pending before
the Asst Sessions judge, B'lore,
may be withdrawn. Necessary
instructions in the matter may
kindly be issued.

I am directed to state that the Govt were communicated in Gen. Secy's letter Dated 29.12.38 relating to all the pending cases against him, including the charges pending in the Asst Sessions judge's Court, and consequently the charges against A6 T.K. Nanjappa in that Court may also be withdrawn

As regards the withdrawal
against the other accused
of the case / pending in the
First Magistrate's Court, B'lore,
I am to state that this question may
be considered after the conclusion
of the trial in the / Asst Court of the Sessions
judge, B'lore.

I have etc
sd/-
Addl Secy

BVR
24.1.

Copies to :- (1) P.P. B'lore with refce to his letter No. 552/38-39, dt 18-10-38.
(2) The D.G. of Police.
(3) The Comptr to Govt

4385 898 45

No. 98/38-39
Enc: one

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore City, ... 1939.

REV. SECRETARIAT
7. JAN 1939

FROM

G. S. DORASWAMY IYER, ESQ., B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE CITY.

To

The Additional Secretary to the
Government of Mysore
Bangalore city.

SIR,

Re Electrical department defalcation
case

I have the honour to
forward herewith a letter from the
Court of the First Magistrate Bangalore
and to respectfully solicit
instructions in the matter

I have the honour to
remain Sir
Your most obedient Servant

G. S. Doraswamy Iyer

46

Immediate

GENERAL AND REVENUE SECRETARIAT,
9th January 1939.
Bangalore,

D. O. No. P 3669/Secy 1.

Subject:- Electrical Department Defalcation case.

Dear Sir,

In reply to your letter No.958/38-39 dated 5th January 1939 on the above subject, I am to state that it is understood that the case before the Assistant Sessions Judge has since been disposed of and to request you to kindly send a copy of the judgment passed by the Judge in the case(B.Sc.5/36-7), as the question of withdrawal or otherwise of the other cases before the Special ~~First~~ Magistrate has to be decided with reference to this judgment and after an examination of it.

I am also to request you to take an adjournment for 20 days in these cases before the First Magistrate, Bangalore.

The original letter of the First Magistrate,

Bangalore received with your letter under referenc
is herewith returned.

Yours sincerely,

G.S.Doraswamy Iyer, Esq, B.A., B.L.,
Public Prosecutor,
Bangalore.

Appendix F G—1]

Immediate

SUBJECT .....

.....

.....

Section Law

File No.

Serial No.

Diary No. of letter replied to D. O. No. P3669/Genl.

To

Subject :— Electrical Department Defalcation Cases.

General and Revenue Secretariat

( )

the *193*

Dear Sir,

In reply to your letter no. 958/38-39, dated 5th Jan: '39 on the above subject, I am desired to request you to be so good as to obtain and transmit for reference a copy of the judgement passed by the Assistant Sessions Judge, B'lore in B.S.C. No 5 of 36-37.

I am also to request you to take an adjournment for 20 days in these cases before the First Magistrate, Bangalore pending orders of Govt.

Date of issue 9/1/39

Signed by Mr. S.R.V.

State that it is understood that the case before the Asst Sessions Judge has been disposed of & requests you to kindly send a copy of judgement passed by the Judge in the case. (R. No. 5/36-7). Ack receipt of same & advise

List of enclosures ..... whether the case before the Spl. Magistrate has been disposed of.

Copied by .....

Refer to the judgement & after the same is received

Examined by .....

~~Next date of hearing may kindly~~
~~be intimated~~

The original letter of the
first Mgh. B'lore received
with your letter under reference
is herewith returned.

Yours Sincerely.

31.1.79

G. S. DORASWAMY IYER, B.A., B.L.,
PUBLIC PROSECUTOR,
BANGALORE CITY.

BANGALORE CITY,

Dated, 20.1.39.

4618/P of 38

POKR 20.1

Dear Sir

I am herewith sending you a copy of the Judgment in the Electric Department defalcation case as desired

Yours sincerely

S Doraswamy

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE AT BANGALORE.

Dated the 23rd December 1938.

P R E S E N T.

G. KRISHNA MURTHY, ESQ., B.A., L.L.B.,

Asst.Sessions Judge, Bangalore.

SESSIONS CASE NO.1 OF 1938-1939.

COMPLAINANT: VS ACCUSED:

Government of Mysore.

1. N.Doddiah.
2. Sidde Gowda.(dead)
3. Veerappa.
4. Ramachandrachar.
5. Suryanarayana Rao.
6. T.K.Nanjappa. (All charges withdrawn).

JUDGMENT:-

Sessions Case No.1 of 1938-1939.

J U D G M E N T.

In this case four accused are tried. The first wo, Doddiah and Erappa are charged for offence under Section 471 Indian Penal Code, for having used a forged document as a genuine one, knowing the document to be a forged ne, and the other two Accused Ramachandrachar and Suryanarayana Rao with having abetted those two Accused in the ommission of the said offence and as a consequence of thi betment an offence has been committed punishable under ection 471 read with Section 109 Indian Penal Code. It ay be mentioned that originally these Accused were committ or trial on various charges by the City Magistrate, Bangalore. Some of those charges were tried at first in this ourt in Sessions Case No.5/36-37 and the present charges re those which have remained over out of the charges originally committed to this Court by the City Magistrate. Of the six accused originally committed to this Court, one, who has numbered as the second Accused, has since died, and against another, who was numbered as Ac.6 all the charg are withdrawn and the same Accused is acquitted under Section 494 I.P.C. So, we are left with only these four Accused. But the numbering which was given to the Accused in the beginning is still adhered to in the present trial also, to avoid confusion in refering to the number of the Accused. So Doddiah remains the first Accused and Veerappa Ac.3, while Ramachandrachar and Suryanarayana Rao are referred to Accused Nos.4 and 5.

2. All these Accused plead not guilty. They have in this case merely adhered to the statements they have made before the committing Magistrate, adding only that they are not guilty. The charge as framed against Ac.1 and Ac.3 is that between 12th July 1935 and 23rd August

August 1935, these Accused used the document viz., Ex.P.5 dishonestly for the purpose of cheating the Government of Mysore knowing that they had reason to believe, at the time of making use of it, that the document was a forged one, as against Accused Nos.4 and 5, the charge is, that in the use of the said document by Ac.1 and Ac.3 these Accused A.4 and A.5. abetted the said persons in the commission of the said offence. The statement of the first Accused before the committing Magistrate is marked Exhibit P.177 in the case. In that he has pleaded complete ignorance of documents marked Exhibits ~~P.122~~ P.67 and P.68 in the case, and also about the Cheque Exhibit P.55 for Rs691/- being issued in his favour or of his having endorsed it over in favour of fourth Accused, Ramachandrachar. He asserts that he never took any bill from the Hassan Office and that he did not know who were preparing the Bills for him and has made a suggestion that Ac.3 was taking his Thumb Impression to blank forms. The plea of the third Accused is marked Exhibit P.179. He pleads that he was taken with the Accused Nos. 1 and 2 only as a working partner, that he was always on the lines on work and that Ac.1 who was coming to him now and then was taking his signatures to blank bills, and suggests that his signature to the bill Exhibit P.5 is one such and that he did not know what amounts were realised from which bill as the agreement between the parties was that the profits had to be shared after the close of the work. In short his plea is that he was not taking any part either in the preparation of the Bills or in the realisation of the amounts due under them, but was merely signing to blank Bill forms, handed them

over to Ac.1 and left the other matters connected with their preparation and realisation to him alone, so that he has had no hand in the preparation of the particular bill Exhibit P.5 or in regard to the questionable figures mentioned in it.

3. The statement of the fourth Accused before the Committing Magistrate is marked Exhibit P.180. In this statement he has not stated much excepting undertaking to file a detailed written statement wherein he would explain all the circumstances against him. That written statement he has filed, is marked Exhibit P.180 (a). It is a long statement and seeks to explain all the circumstances appearing against the Accused in evidence in the case. It is unnecessary to detail this statement at length as we shall have occasion to refer to it in the later portions of the judgment at the proper places. The gist of it, however, is that though he prepared the Bill Exhibit P.5, in accordance with the Carting Vouchers supplied by the contractors, it did not occur to him to notice if those vouchers contained any alterations, erasures and superscriptions, that now being called upon to examine them carefully, he finds that both the Bill and the duplicate Vouchers having undergone material alterations. But he is unable to particularise in what respect the Bill or the Vouchers have undergone those changes, in the absence of the original bill, written by him in pencil, and that some of the words and digits that appear in the carbon copy are not in his writing. With regard to the particular items in the bill in question viz., Exhibits P.5 (XII) and P.5 (XIII), he could not say anything definite,

and that after he handed the Bills over to the contractors after preparing them in accordance with the carting vouchers that they gave him, he did not receive the bills again and had nothing to do with them. He was at that time not the clerk checking the bills.

4. The statement of Ac.5 before the Lower Court is marked Ex.P.181 and he too has filed a written statement to supplement his statement before the Court, and that is marked Ex.P.181 (a). His case is that though he was the checking clerk at the time in the office of the Ly.Chief Electrical Engineer and as a matter of fact checked the bill Ex.P.5 in question, yet he was inexperienced in the work of checking the bills. The work was given to him just before he checked the bill in question Ex.P.5, inspite of his protest that he did not know the work and that he was incapable of doing that work. As advised he sought instructions in checkin the Bills from Ac.4, who was in charge of that work till then, and according to the instructions given by the latter he has checked the bills and copied the certificate on the bills from some of the bills which Ac.5 previously had checked. He states that he never actually compared the Carting Bill with the Invoice and that he merely obeyed the instructions of his superior officer, the sixth Accused, who was the Head Accountant of the office and acted according to the instructions given by Ac.4.

5. The circumstances under which the accusations are brought are the following:- An Electrical Transmission Line was undertaken between Mysore and Bhadravati and the work commenced about November 1934. For the pur-

purposes of the construction of the Line, materials and to be conveyed to the various work spots. Mr.Foreguard, who is examinee as ...30, was put in charge of that construction work with his Head Quarters in Mysore in the beginning and later at Hassan. The entire construction was divided into three sections and each one was in charge of the Line Inspector: that between Mysore and Holenarsipur being in charge of Mr.Hoyal P...18, Mr.D'Vaz P...13 being in charge of the next section with his Head Quarter at Hassan, and one Mr.Lokeshaiah being in charge of next and the final section of the construction work. Mr.Foreguard, though the Section Officer with regard to the construction work, had not the complete accounting portion of the work, attached to his Office. The Head Quarter Section under Mr.Hayath, ...20 working at Bangalore, was the accounting unit for the expenditure of that construction. In that Office A.4 and A.5 were clerks and were in charge of the work of Bill checking during this period. For the construction of the work, materials had to be supplied some times from the Central Stores at Bangalore which was also under supervision of P...20, Mr.Hayath, and sometimes directly from the Firms supplying the materials. In either case the indent for the materials had to be given by Mr.Foreguard to the Central Stores, who used to issue invoices withregard to the materials supplied either directly from the Stores or from the Firms. These invoices used to be prepared in quadruplicates using carbon sheets. The Flock copy in the pencil would be retained in the Stores. One copy of it would be sent to the Head Quarter Section. The third and fourth copies would be sent to the Officer in charge of the Work i.e., Mr.Foreguard, one to be retained by

him for his reference and another to be returned by him to the Stores after acknowledging the materials. That copy would be posted to the original invoice retained in the book in the Stores; all these four copies being prepared in carbon simultaneously would tally with the original block copy written in pencil. The material would be supplied to the various Store Yards, which had been created along the Line and would be received by the various Line Inspectors or some Clerk working under him, who was kept there in charge of the particular Camp. The chief item among the materials was the Poles and in the construction of this line three kinds of poles were used viz., Railway Poles, New Steel Poles or Special Poles and Old Meter Line Steel Poles. It is chiefly with respect to these Poles that the case is concerned. From the Main or Sub Stores these materials would be removed to the various work spots according to requirements. That would be done mostly in Carts. For carting these materials A.1 and A.3 and another Sindhi entered into an agreement with the department as per agreement Ex.P.2. All these three contractors have signed it. They were bound, according to the Agreement, to supply carts as and when required, the various camps and remove the materials handed over to them to the various working spots specified on the line. When sending out materials from the camp, a definite procedure was followed which operated as a check on the materials issued from the camp and the materials carried by the contractors and delivered by them at the destination. That procedure was that the issuing clerk would prepare Vouchers called variously as Carting sheets *carting* chits and carting vouchers. Printed book containing three forms for each voucher were supplied for the purpose, and each issue of the material was noted

in triplicate forms. These triplicates were prepared simultaneously in carbon copies. The first or the block written in copy/pencil, was left in the book itself as a reference to the issuing office. The duplicate and the triplicate, which were carbon copies and identical with the block copy in all respects, were handed over to the Carting Contractor or his Agent who was taking charge of the material. In them were noted the quantity and the nature of the material issued. The Contractors handed over the duplicate and the Triplicate to the receiving clerk at the destination. The receiving clerk, who checked the materials with that noted in the Carting Chits, acknowledged the same in the both the duplicate and the triplicate Vouchers. If the person, who received, was the Line Inspector himself, he would countersign in both the duplicate and the triplicate for the distance over which the materials were carried. After such countersignature the Line Inspector would hand over the duplicate voucher to the contractor, which would afford him as the voucher for the quantity of work he has done and on which he should base his claim for wages in accordance with the rates specified in the agreement Ex...z. The triplicate was expected to be sent over by the Line Inspector to the Sectional Officer i.e., Mr.Foreguard's Office. But it is admitted on all hands in the present case that this injunction was observed only in its breach, and the triplicate was never sent to the Sectional Officer but was retained with the respective Line Inspector's Unby. The contractor after collecting a sufficient number of such duplicate carting chits for the work done by him, used to prepare bills on the basis of these duplicates and submit them either to the Head Quarter Section in Bangalore or to

to the Section Office at Hassan. If it was presented to at the Head Quarter Section in Bangalore they used to be registered in a book maintained there for the purpose, called the Bill Register marked Ex.P.58 in the case and it would then be sent accompanied by the duplicate vouchers to the Sectional Office at Hassan for verification and return. The verification used to be with regard to the quantity of the materials carted, the distances for which they were carried, and as regards any departmental help rendered in loading and unloading, and to these effects a Certificate was expected to be given by the Sectional Officer on the Bills, and the Sectional Officer then returned these bills along with the duplicate vouchers to the Head Quarter Section. There in the course of official routine it would first be referred to the Head Accountant of the Office and from him to the Head Clerk, then to the Registering Clerk and finally to the Bill Checking Clerk after an entry of the same has been made in the Bill Transit Register, which is marked Ex.P.60 in the case. The Bill Checking Clerk was required to check the bill in detail verifying the entries in the bill with those in duplicate carting voucher and invoices. After this the Head Accountant was expected to test check the same, and to affix a certificate to the bill and then submit it to the Officer, Mr.Hayath, who after satisfying himself that the bill had been certified by the Sectional Officer and by the Head Accountant of his Section, would pass the Bill for the amount found on checking in his office. This is what is referred to as the Preliminary Audit of the bill. After this preliminary audit the bill used to go to the Financial Branch of which Mr.H.V.S riva-ntiah, P.W.27 was the Head, and there it underwent a detailed

audit at the hands of the Auditors working in his office, after which a final Cheque drawn against the Government Treasury, used to be passed by the Financial Assistant in favour of the Contractor and sent to the Dy.Chief Electrical Engineer, (D.C.E.E) to be delivered over to the Contractor,. After the Cheque is issued to the party, he would get it cashed in the Treasury and the Treasury would then send the paid Cheques back to the Financial Branch where the Cheques would be examined to see whether the payments have been properly made by the Treasury, and then they would be filed in the office. This is the Administrative routine for the presentation of the Cheque and the passing of the work bills adopted with regard to the work done by the contractor in the Mysore-Bhadravathi Transmission Line. There was, it is admitted no prescribed separate Code or rules for this purpose in the Electrical Department and they were guided by the account rules in the Civil Account Code (Vol.IV) and Public Works Accounts Code, for audit purposes, which were also supplemented by the instructions given from time to time by means of Circular Orders of the Chief Electrical Engineer. These Circular Orders issued from time to time are marked Ex.P.3, P.4, P.51, P.87 and P.102.

6. Ex.P.5 is one such Bill presented by the Contractors, A.1, A.2 and A.3 with respect to work done by them during the months of April, May and June 1935 and it is this, which is the subject matter of the charges in the case. This bill contains no less than 28 items supported by 26 Invoices, which are referred to in the Carting Vouchers Ex.P.82, P.(1 to 26) and P.6 and P.7. Of all these Items in the bill it is two marked Ex.P.5 (XII) a P.5 (XIII), which are the specific items regarding

which the offences are alleged to have been committed. The bill, Ex.P.5 was prepared on 21-6-1935 and was presented at the Head Quarter Section with its duplicate Ex.P.5 (a) and the supporting duplicate carting vouchers stated above, on 12-7-1935 as per the Bill Register entry marked Ex.P.59 (a). That very day it is sent to the Hassan Sectional Office for verification and rentnrn, as per the note of the Dy.Chief Electrical Engineer, Mr. Hayath, marked Ex.P.5 (1). The Bill is verified in the Hassan Office on 26-7-1935 and Ex.P.5 (2) is the certificate of the Sectional Officer, Mr.Foreguard, P.W.30 made on the bill. In Mr.Foreguard's Office there was working the Clerk, Mr.Power, who is examined as P.W.23 who was assisted by two other clerks Muddukrishna, P.W. 16 and K.Srrenivasa Rao, P.W.15. In that Office they were maintaining a Register marked Ex.P.15, which may be said to be partly a Register for registering the bills received, and also partly for copies of the bills being made. The first part in Ex.P.15 in pages 1 to 20 is the registering part wherein merely the date of receipt of the bills, their numbers and the total amounts claimed are only mentioned without further details, and that portion includes not only the carting bills received but also the other kinds of office bills such as Travelling Allowance, Pay Bills, etc. The second part, which begins from page 23 onwards, is entirely devoted to making copies of the carting bills received and though it does not purport to be an exact copy of the bills received, still the various details to be found in the bills received are entered in the various headings adopted in that portion of the register. This Register was mostly maintained by P.W.16, who has written them on the instructions given

by Power, P.W.23. In this Register the bill in question is copied in Ex.P.15 (a) and it is registered also in the earlier portion. It is this Clerk, P.W.16, who has written the certificate marked Ex.P.5 (2) and P.5a(1) on the bill in question and its duplicate which are signed by the Sectional Officer, Mr.Foreguard, P.W.30. This bill Ex.P.5 has been received back with the verification of Mr.Foreguard on 30/7/1935 and it has been checked by the 6th Accused on 3/8/1935 and certified by Mr.Hayath as per Ex.P.5 (7) and P.5 (9). Mr.Hayath has also passed the payment order for Rs441/- as per Ex.P.5 (VII). It may be noted here that the Head Accountant of this Head Quarter Section was one Manjappa, who has also made a Certificate Ex.P.5 (IV) on the bill and has also initialled Ex.P.5 (IX), a certificate of Mr.Hayath, that the claim is bonafide and genuine. This Head Accountant is the person, who was formerly the sixth accused in the case. After these Certificates in Head Quarter Section they were sent to the Financial Branch of the Head Quarter section and was passed there for the amounts of Rs441/- on 15/8/1935. In the Financial Branch this bill has been audited by P.W.26. The test-audit has been made by the Senior Accountant Natarajan, P.W.25, and has been finally passed by the Financial Assistant, P.W.27, Mr.H.V.Srikantiah for Rs441/- and a Cheque Ex.P.(XIV) has been issued to the party. It may be mentioned that on the authorization of all the three contractors on the back of the Bill Ex.P.5, the Cheque has been issued in the name of only the first Accused Doddiah. This cheque has been negotiated by him to the Banker Lunides Singh as spoken to by his Clerk P.W.22 and has been sent by the latter to the Bank of Mysore, which has realised the amount from

the Treasury, and finally the cheque has been returned by the Treasury to the Electrical Department where it is issued.

9. The case for the prosecution is that in the two items of the bill marked P.6 (All) and P.6 (Alll) the Accused here, after the bill was presented, altered the figures denoting the number of poles from 1 and 3, into 31 and 93 respectively, and instead of claiming the carting charges for only 1 and 3 poles for which they were entitled to, they have claimed for the inflated figures of 31 and 93. They therefore contend that this bill P.6.6 has not only been forged with a view to cheat the Government, but also it has been used by the Accused as a genuine document, knowing it to be a forged one. Now a close perusal of the bill and its supporting vouchers with respect to these two items, places beyond doubt that there has been some alteration in the bill and the duplicate vouchers, for we find that while the original and the duplicate carting voucher, which are marked as exhibits P.6 and P.7 contain the numbers as 31 and 93 respectively. As already stated the carting vouchers issued at the time of despatch of the materials are prepared in triplicates simultaneously with the help of the carbon sheets and have necessarily to tally one with the other and there is no ground for differences appearing in any one of them, unless it has been subsequently tampered with. To other proof is necessary therefore to say that the duplicate carting vouchers P.6 and P.7 have been subsequently altered; and as the original and the triplicate were in the custody of the department and as it was only this duplicate, which went into the custody of the party, it lies on the party to show how this

* exhibits P.6 and P.7 contain only one alteration here each 3 there here, the bill as well as the duplicate carting vouchers marked

alteration took place in the duplicate voucher. Moreover a bare perusal of these duplicate vouchers Exhibits P.6 and P.7 go to show and there have been a patent alteration made in them. We find such alterations effected in more than one place. It is in evidence that these heavy poles would be carried and loaded each in a single double bullock cart and the carting vouchers mention not only the number of poles despatched but also the number of carts in which the poles were loaded and sent. The original as well as the triplicate mentions that it was in one double bullock cart and three double bullock carts that these Poles 1 and 3 were despatched under those vouchers. In the duplicate, as it stands now, we find that these figures are altered into 31 and 93 double bullock carts in figures, scoring out words one and three which apparently have been written in it in conformity with Ex.P.6 (a) and P.7 (a). Then again in the column of quantity we find similar marks of erasures and new figures entered and the quantity exaggerated by putting figures three behind one making it (31) and nine behind three making it (93).

6. The question now is whether the Accused are responsible for this inflation. In the nature of things it is not possible to expect any direct evidence of such tampering. It is only upon circumstantial evidence that has been adduced in the case, the case has to be decided. That the Bill Ex.P.5 is written by Ac.4 Ramachandrachar is not disputed. It is also signed by A.(1) and A.3 and Siddish, the Contractors. Of course it is in evidence that there is no departmental prohibition for the officials of the department helping illiterate contractors in the preparation of their bills. So by the mere fact that A.4 has written this bill, not much inference adverse

to him could be drawn. But neither the 4th Accused nor A.1 and A.3 want to take the responsibility for this alteration in the duplicate voucher and in the Bill Ex.I In fact as between A.1 and A.3 themselves, they want to shift the burden each upon the other; for while A.1 says that A.3 was the person, who was responsible for getting the bills prepared and he was taking his thumb impressions to Blank Forms of Bills, A.3 makes a similar accusation in that matter as against A.1. But A.4 has stated that in no case was any signature appended to any blank form at the time he prepared the bill. The case of A.4 is that he prepared the bill according to the vouchers given to him and that, having prepared it, he handed it over to the Contractors and had nothing more to do with it. If it could be stated that the bill contained the figures 31 and 93 poles respectively in these items even at the start when it was presented in the Office, then it is clear that it was only a wrong claim put forward and no criminal liability perhaps would attach to it. No question of forgery in connection with presentation would arise. It is only if, after presentation of the bill that figures 1 and 3 in it were altered into 31 and 93 it could be said that the bill has been forged. None of the Accused has taken a definite stand that at the time of presentation of the Bill the figures in these Items were 31 and 93. A.1 and A.3 do not make any definite statement in this matter at all, and as already stated they simply shift the burden one upon the other. A.4 in his statement says that the bill Ex.P.5 and the duplicate voucher as they stand, now have undergone material alterations and he is unable to particularise in what respect they have undergone the change. He

He also states that some of the words and digits that appear in the Carbon Copy are not in his writing. But here again he is unable to say which portion of the Bill or which figures in it are not in his writing. Even when his attention was directly called to the figures x.1.5 (XII) and 2.5 (XIII) he only said that he could not say anything about it. But I think, though the Accused have not taken any definite stand with respect to this case, there is ample evidence let in for the prosecution to show that the bill as originally presented contained only the figures 1 and 3 in these items, and that it was only subsequently that these figures are altered into 3½ and 5½ respectively. As already stated the bill after its presentation and registration in the office of the Deputy Chief Electrical Engineer in Ex.1.59, has been sent over to the Sectional Officer at Hassan for verification and return. At the time of registration in D.C.E.'s Office at Bangalore nothing more is done than giving it a number and mentioning the total amount claimed under the bill in the Hassan Office is checked only with regard to the number of poles and distances for which they were carried with reference to the records in that office and then sent back with the vouchers to the Head Quarter Section with this certificate as to its correctness or otherwise as to the number of poles and distances and whether any departmental help was or was not given to the Contractor in loading or unloading the materials. That Office has not concerning itself with checking the amounts mentioned in the bills or its correctness. How a big controversy has taken place with regard to the duty of that office "to check or not to check the amounts mentioned in the bill. It is stated for the prosecution that se-

according to the circular in force that duty is not cast upon that office. The Circular relied upon for the purpose is E...01 and not only the wording of that Circular but also the interpretation given to it by its Author Mr.Worted, examined as P. .33 shows that the duty does not lie with the Sectional Officer to check the amount of the bill and its correctness. The wording used in paragraph 6 of that Circular "IT" was sought to be interpreted by the defence counsel as including the checking of the amounts of the bills also but P. .33 has repelled that suggestion as being repugnant to the correctness of accounting and has gone further and stated that so long as that Circular remains in force and is not superseded by another, the subordinates are bound to obey even though the need of the subsequent changes and is succeeded by another Chief Electrical Engineer. As against this the defence rely upon the statement made by Mr.Cariappa, who succeeded Mr.Worted as Chief Electrical Engineer for a time & who has been examined as P. .34 in Special Case No.6/36-37 and whose deposition is marked in the present case as Exhibit P 10b, wherein he states that it was the duty of the Sectional Officer to have checked the amount of the bill also and he suggested that officer to check it. That no doubt is so and perhaps it may be so is contended for the defence that that officer had given some additional instructions in the matter to the Sectional Officer to suspect such a checking being done. At the same time that the Financial Assistant Mr.M.V.Prabhutesh, P. .27, stated in the committing Court that it was his opinion based on Circulars that the Sectional Officer has to check the amounts of the bills. In the previous case as well as here he has given less made the same state-

statement. In the present case his evidence is that he could not say whether according to the Circulars it is the duty of the Sectional Officer to check the amounts of the bills or not. But it is, I think, immaterial what exactly the rules demanded. The more important thing is to see what was the practice observed in the Sectional Office. There could be no doubt whatsoever that it was not the practice of the Hassan Office to check the amounts at all. In the first place none of the certificates on the bills made by that office certifies to the correctness of the amounts or even alludes to it. In the next place we find that such glaring and startling figures as claims of Rs105/- for carting one pole and Rs20/- for two poles in some of the bills and of Rs67/- and odd for one pole in the bill in question x.y.z itself have been left unnoticed. It is impossible to think that any person who was checking with a view to test the correctness of the amounts claimed, would have allowed these figures to stand unchallenged if it was part of his duty to check that portion of the bill.

9. The importance of this argument is that in the bill in question the amount claimed is Rs466/- and in order to arrive at that sum, the figures claimed as carted for the two items in question must be for quantities somewhere in the region of 31 and 93 poles respectively, and the total claimed would not have approached that figure if the poles carted under those two items were only 1 and 3. That no doubt is true. But the answer of the prosecution for that portion of the case is that knowing full well that the amount would not be checked in the Head Quarter Section as soon as it was presented,

or in the Hassan Office where it was sent for verification, the Accused cleverly introduced the amounts which they had in view to be claimed so that after it returned from the Hassan Office back to the Head Quarter Section they might take the opportunity of filling in the details with regard to the work done to bring up the claim to the figure mentioned in the bill. In the copy of this bill, made in the Bills Receiving Register at the Hassan Office Ex.P.15, the quantity entered as against these two items is 1 and 3 only and the sums claimed as against these items are Rs87/3/3 and Rs9/15/3 only. If this register is to be belived it is a very strong proof that when Ex.P.5 came to the Hassan Office, the number of poles entered as against these two items in question was only 1 and 3 and not 31 and 93 as it now stands. Naturally therefore a strong attempt is made to shake the weight that has to be attached to this register. This register as well as the persons who have maintained it viz., P.W.23 Powar and P.W.16 Muddukrishna have come in for a lot of criticism and have been cross-examined at very great length. That cross-examination has brought to light no doubt a number of defects in the register Ex.P.15. In fact it is a register not authorized by the Circular and not required by any officer to be maintained. It is a blank book with pages unnumbered. It has got one of its pages in the middle torn off and removed, and even in the various entries a number of irregularities and omissions have been brought out in the cross-examination. For instance, the Bills Register in the first part of it contains bills not copied in the second part, and bills copied in the second part are sometimes not registered in thefirst. In some cases the total amounts of

the bills mentioned in the two parts do not tally with each other, and in other cases the amounts mentioned have been either corrected or over-written with other figures. Then again even in copying out the bill in the second part it does not strictly conform to the original bills themselves. With respect to this very bill Ex.P.5 one or two amounts have been omitted to be entered in Ex.P.15 (a) and the order of mentioning items is also varied to a certain extent. All these do exist, it must be admitted. But inspite of these it still remains a question whether the book is altogether devoid of any evidenciary value. I do not think, that because of these defects the register is altogether to be rejected. As, P.W.23 and 16 explain it is at the instance of P.W. 23 that this book was maintained. It was first opened some time after the office itself was started, but for it is after P.W.16 entered service in February 1935 that the book was first opened. The bills which admittedly had been received till then have not been entered in any corresponding registers. P.W.23 states that he got this book opened because he wanted to have some reference in his office to answer any reference or querry that may be made to his office with respect to the bills and vouchers returned to the Head Quarter Section after verification. Of course, if as according to the rules the Line Inspectors had sent the triplicate cutting vouchers to the Sectional Office, the necessity for opening this Register would have been obviated. But as already stated that portion of the Circular had never been followed at all. It is no wonder therefore that the Hussan office not having any record at all with respect to the bills for which it had given certificates, wanted to have some

sort of reference in its office and has opened this register Ex.I.16, though it was not authorised. P.W.16 has also given an explanation why a page in it is missing. He says that the ruling in it went wrong and so he had to take away that page and in doing so the corresponding page on the other side came out. That explanation appears to be not altogether improbable. Above all there is the indisputable indication that this was a book maintained in that Office from the beginning. There is the evidence not only of these two clerks who have no motive to make a false statement in this respect, that it was maintained but there is besides in the book the initials of Mr.Foreguard, P.W.30, at least in one place. Power P.W.29 himself has written in some places some instructions to his subordinate, P.W.16 in the matter of maintaining that register. It contains some entries in the handwriting of P.W.16 the other clerk of the office also. Above all there is the signature at least in two places in two different pages of P.W.3 for having received some bills due to him. These facts make it evident that this was a register maintained in that Office even when P.W.27 Mr.H.V.Srikantiah went to the office in March 1936 to inspect it, this register was placed in his hands at once and he and his clerks have also ticked some of the items. I have therefore no hesitation in saying that this was one of the registers maintained in that Office.

10. The various defects pointed out in the cross-examination serves to show no doubt that the book was not kept in a most orthodox fashion. The second part though it purports to be copies of the bills is not strictly an exact copy of the bill but only the details taken out of the bills and placed under the several headings

put in the register and even in doing so the writer P.W.16 has not been over careful and perhaps the lack of supervision and inspection by the superior officers rendered him more careless than otherwise he would have been in this respect. But granting all these defects existed, still I fail to see why, when it is conceded that the register was maintained in the office, it should not be accepted so far as it goes if that portion is also otherwise supported; It is elicited from the examination of P.W.16 that he could not say whether he made this copy Ex.P.15 (a) either from the bills or vouchers that accompanied it or which items of the copy he made from the bills and which from the vouchers. That answer is clearly one which the witness has made in some confusion. As the name itself implies it is a copy of the bill. It could never be a copy made from the voucher because no voucher gives all the information contained in the copy, for instance the amounts and other particulars, and it is not likely that for one portion of the information entered in the copy of the bills would be relied upon and for another the corresponding vouchers. I am therefore inclined to accept Ex.P.15 as a genuine register and if that is accepted it goes to show that the bill Ex.P.5 when it came there had only the figures 1 and 3 poles as the quantities in the Items Ex.P. 5 (XII) and P.5 (XIII) and not 31 and 93 as stated now. That these figures have been entered there before the audit of the bill in the Head Quarter Section is also made clear from the fact that the figures of amounts entered in Ex.P.15 (a) are those which Ex.P.5 contained before the amounts were checked and corrected in red ink in the Head Quarter Section by the Head Accountant. Even in this

amount column as against these two items there is discrepency, for while the amounts as against item of one pole in Ex.P.5 (XII) is Rs87/3/3/ in both the bill and Ex.P.15 (a), the amount shown as against three poles in Ex.P.5 (XIII) is Rs189/15/3, in Ex.P.15 (a), it is Rs9/15/3 so that the bill is altered not only with respect to the quantity of material by putting 3 and 9 behind the figures 1 and 3 making it as 31 and 93 respectively, but also the amount in the latter case is altered from Rs9/15/3 into Rs189/15/3 by placing the figure "18" behind the figure nine in ruppe column. A comparison of the total weight of the material connected with these two items also shows that the bill when it came to Hassan Office must have contained only as numbers 1 and 3 poles for in the total weight column the total weight is given as Lbs.1,125, which is the weight of One pole as against Ex.P.5 (XII) and Lbs. 3,375 for three poles as against Ex.P.5 (XIII), and this tallies with what is stated in the original and the triplicate carting vouchers Ex.P.6 (a) and P.6 (b) and P.7 (a) and P.7 (b). This also goes to show that the entry of 1 and 3 poles in the quantity column is not by mere accident or mistake, but what was actually contained in Ex.P.5 from which this copy is made. Another very cogent reason why this tampering of figures in the bill Ex.P.5 could not have taken place at Hassan is the want of motive for the authorities in that place to effect such alteration. It is not even suggested that the contractors or any one were on terms of intimacy or collussion with the authorities in the Hassan Office and the Hassan Office has nothing to do in the matter of passing the bill. It certifies only to the quantity and distances and whether any departmental help has or has not been rendered. After the bill

bill is passed the cheque too that is issued in payment of the bill does not pass through that department to be delivered to the party, so that at no stage does the Hassan Office stands to gain by making any such alteration in the bill sent to them for checking. It is thus clear that the bill Ex.P.5 when it reached Hassan Office contained only the figures 1 and 3 and must have reached Bangalore with the verification certificate on it in the same condition as it reached there.

/1. It cannot also be suggested that the figures 31 and 93 are the correct figures, and not 1 and 3 respectively. For this there is ample evidence in the case. The carting of these items is out of a consignment of 108 New Steel Poles supplied to Mr.Royan at the Yedatore Station, according to his indent marked Ex.P.135 (a) in the case. This being a foreign supply these bills were supplied to the Railway Station Yard at Yedatore directly. Upon receipt of the 108 poles the local material register at the place is credited with the supply of this 108 poles as per entry Ex.P.107 (a) by Rama Rao, P.W.21, the clerk of the place. Then as already stated the indent Ex.P.135 (a) is sent to the Stores and the Stores, according to the practice already stated, has prepared Invoices in quadruplicates and has sent one to Mr.Foreguard, one to the Head Quarter Section. Ex.P.135 (b) is the block copy retained in the Stores itself and the copy sent to the Line Inspector is received back with this acknowledgment for the receipt of 108 poles and is pasted to the block copy and is Ex.P.135 (c) in the case. Then the same material receipt register Ex.P.107 (b) and the carting register Ex.P.108 (a) maintained at the Yedatore Office, shows that

out of these 108 poles 107 poles have been sent by carts to the various destinations on the Line and the entry Ex.P.108 (e) relates to the two particular items in question and they show that it is only pole and three poles respectively, which were despatched by carts on 22/5 and 27/5 respectively. For these issues the carting chits which have already been prepared are already referred to and they also show that it is one pole and 3 poles only, which were despatched under this consignment through these contractors A.1 and A.2 and A.3. They are marked Ex.P.6(a) and P.6 (b), and P.7(a) and P.7(b) in the case, and the clerk P.W.27 who has despatched them says that it is only this quantity that was despatched and the clerk who has received them, One K.Shamanna, who has not been examined, but whose deposition in the previous case marked Ex.P.184 has sworn that under these carting chits it is only one pole and three poles that were received by him. If as a matter of fact it was 31 and 93 poles that were issued and received under these two consignments then the total of these two consignments alone come up to 144 poles and would far exceed the total receipt of the bills at the Yedatore issuing station itself, which would absolutely be impossible taking into account the other despatches of poles amounting to nearly 103. This argument then that 31 poles and 93 poles were the quantities issued under these carting chits cannot stand a moment's scrutiny.

12. We thus come to the position that it was only 1 and 3 poles that were due under these chits and that Ex.P.6 and P.7 which were prepared along with the original and the corresponding triplicates Ex.P.6(b) and P.7(b)

also contain the same number of poles and as 1 and 3 and that the bill when it was originally presented contained only the numbers 1 and 3 poles in these two columns and it remained unaltered even when the bill reached Hassan's Office for verification and was returned from there to the Bangalore Head Quarter Section. That was on 24/7/1935. Then there are two alternatives only: where the tampering of these figures could have taken place, for it is only in these two offices that the bill moved before the actual payment by means of Cheque Exhibit P.14. There is neither reason nor probability that this tampering could have taken place in the Financial Branch. As a matter of fact even before it reached the Financial Branch there is evidence to show that the tampering had already taken place, for in the entry made of this item in the register of the Head Quarter Section marked Exhibit P.12 the number of poles stated therein is not 1 and 3 respectively but 31 and 93 poles. So we are driven to the conclusion that the tampering of the bill Ex.P.5 e must have taken place in the Head Quarter Section after it was returned from the Head Office. There is thus the unauthorised alteration in the bill while it was in the office and the object is clearly to make a false claim and thus forgery has been committed with respect to Ex.P.5.

13. The next question is to see who could have committed these things, which is responsible for the tampering of these figures. As P.W.29 says the bill is first referred by him to the Head Clerk who refers to the Head Accountant who in turn refers it to the bill registering clerk and finally it goes to the bill checking clerk. The bill checking clerk at the time was no doubt A.5. But

But that duty had been given to A.5 only just a few days previously, and till then it was A.4 alone who was the bill checking clerk. As already stated the bill Ex.P.5 is in the hand-writing of this A.4. It is in evidence that A.5 was taking instructions from A.4 in the matter of checking of the bills. P.W.20 also says that A.5 was taking the help of A.4 in this matter and the clerks T.Pallich, P.W.3 and P.W.5 also say that they were seeing A.5 going to A.4 for instructions in the matter of checking or A.4 going over to A.5 to help him in the matter. Ex.P.16/ in the hand-writing of A.4 himself also shows that he was giving instructions to A.5 in this matter. It is thus clear that even after A.4 had ceased to be the checking clerk he still had something to do in the matter of checking and had ample opportunities of access to the bills to be checked. A.5 having prepared the bill Ex.P.5 containing inflated figures at least in the amount column just waited for an opportunity to get the bill to his possession or to have access to it somehow, before it was checked so that he could manipulate the figures and make it appear to the person who finally checked that the amount claimed was the correct one. Of course, in doing this, the faulty mode of checking the bill was to a great extent helpful to the accused. He must have known from his long stay in the office, that the mode of checking in Head Quarter section was far from satisfactory and it would not bring out if any wrong quantities were claimed as having been carried, for as will be noticed in detail a little later, the Head Quarter Section in checking the bills did not compare the bill with the actual invoices and see if the carting done agreed with the quantity of the material sent in the invoice, but was satisfied with checking whether the mere arithmetical calculations made in the

bill tallied with the duplicate voucher which the party had sent with the bill. Knowing this defect in chec ing in the office, A.3 who had the opportunity of getting access to the bill, before it was checked, must have managed to put in suitable figures in the column of quantities to bring out the total claim in conformity with the total amount previously put in the bill. Of course even for this one could see that previous calculation when the bill itself was originally prepared was necessary to see what figure was to be inserted to make the carting wages comes up to the total amount which had been inserted in the bill. That also shows that the person who subsequently tampered must be the same person who iriginally prepared the bill. It was necessary to carry out the original design. Then again there is ample evidence to show that A.1 and A.4 were very intimate with each other and had some sort of understanding between them. We have the fact that even at about the time when the work started A.1 has executed two pronotes Ex.P.67 and P.68 for Rs500 and Rs200 respectively in favour of A.4. A.1 to get over this thing only says that he know nothing about these pronotes. But the evidence of P.W.28 Narasimhan, who has attested these pronotes places it beyond doubt that it was A.1 who has executed them in favour of A.4. These pronotes were produced by A.4 himself before the Head Accountant when A.1 was about to withdraw his deposit money, without discharging his dues under these pronotes. Then A.4 is said to have sought the influence of the Head Accountant to make A.1 pay up his dues out of the money he drew from the Office; and upon the Head Accountant threatening that such matters as money transactions between the Checking Clerk and the Contractor ought not to have taken place and

and that if he would not immediately settle the matter he would report it to the Officer, A.4 comes forward the next day stating that the claim had been settled and the pronotes might be returned to A.1. It is in this manner that these pronotes came to the knowledge of the Officers concerned.

14. In the next place we have the fact that on all most all the occasions when the contractors drew the cheques from the office in payment of their other bills for work done in carting, the banking account of this A.4 has invariably received an addition. Such cheques are Ex.P.45 for Rs1125/12/6 cashed on 24/4/1935, Ex.P.65 for Rs691/- cashed on 5/6/1935, Ex.P.38 for Rs761/- cahsed on 18/6/1935, Ex.P.33 for Rs878/- cahsed on 12/7/1935 and Ex.P.27 for Rs1,711/- cashed on 12/11/1935. P.W.1 the clerk of the City Co-Operative Bank proves that A.4 had a drawing account in that Bank and has produced certified copy of the Bank account relating to this Accused, which is marked Ex.P.97 and a comparison of the entries in this extract of accounts with the dates of encashment of cheques by A.1as stated reveals that while the full amount of Rs691/- of Cheque Ex.P.65 is credited to the account of this Accused, considerable sums of money have also been credited to the Accused's Account on the very day the other cheques are cashed or shortly thereafter. For instance the day on which Ex.P.45 was cashed, we find, that a big sum of Rs605/- entered into the credit of this A.4's account. The very next day after Ex.P.38 is cashed, this Accused's account received enhancement of Rs132/- to its balance. Two days after Exs.P.27 and P.33 are cashed similar additions to the Bank balances of this Accused's account of Rs165/- and Rs149/- respectively are found in Ex.P.97 (1). This remarkable series of additions to A.4's bank balance, which

which is at the time when A.1 gets his carting bill cheques cashed is indeed a remarkable thing. These additions cannot be explained and in fact have not been explained, by A.4 as having been due to his own sources. His pay as clerk does not certainly justify these considerable deposits amounting to nearly Rs1,800/- within the course of about four or five months' nor has it been made out that the Accused is possessed of any other source which would yield such considerable income to him. No doubt for the cheque Ex.P.5b being completely made over to him this Accused has offered some explanation viz., that on that date it was a Newmoon day and the 1st accused found it difficult to encash his cheque with his usual Marwadi Bankers as their shops would be closed on Newmoon days and that therefore A.1 sought his help to get his cheque cashed in his bank, as A.1 owed him some money on some promotes. He explains that out of this amount of Rs691/- he himself was paid Rs391/- in deduction of the previous promotes, debts and he paid Rs345/- in cash on that day and later sent Rs55/- by money-order. That explanation is not altogether convincing, for if A.1 was in urgent need to cash it, it is not likely that he would go to his creditor to have it cashed with the possibility that part of the cheque would be deducted towards dues owing to the creditor. Next if his Marwadi Banker's shop was closed that day there was nothing preventing A.1 from having recourse to the Treasury itself upon which the Cheque was drawn to have cash and thus secure all the money to himself. Further the reply explanation of the Accused reveals, that in addition to the transactions brought out by these cheques there were also further transactions between him and A.1. Another remarkable thing is that all the cheques referred to above were obtained from the Government for heavily inflated

claims cheating the Government in the very manner as in the case of Ex...5 as will be shown presently. The conclusion is, is forced upon one that A.1 was seeking the help of A.6 to have these bills tempored with in this manner much to the loss of the Government and the profit of himself and the contractors out of false claims, and that as a remuneration for his services A.6 was getting a share of the illegal gains which were being credited in his bank account as shown above.

18. Then there is the evidence also of P. W.2 and 3 to the effect that this entire bill Ex...5 both words and figures, are in the hand-writing of A.6. This includes of course the interpolated figures of 3 behind 1, making 31 in the column of quantity in Ex...5 (III), and the figure 9, behind 3 making up 93 in the column of quantity in the entry Ex.1.5 (III) and also the figure 18 behind Rs9/15/3 in the column of amount in Ex...5 (III). These witnesses were co-workers with A.6 in the same office for a number of years and must have had ample opportunities of knowing A.6's hand-writing intimately and identifying it. There is no reason to doubt their evidence in the matter nor has A.6 specifically taken any objection that these figures are not in his hand-writing. It has therefore to be taken that these interpolated figures also are in the hand-writing of A.6. That fact clinches the matter as to the guilt of A.6 in tampering these bills.

19. The contention of A.1 that he was not in any way responsible for these inflated bills does not stand a moment's scrutiny. His case is at best that he merely gave the vouchers to A.6 to prepare the bills and being illiterate did not know what figures were put in by A.6 in

in the bill either as to the quantity or as to the amounts claimed, and that after presenting it to the office once he has nothing to do in altering the figures in subsequent stages of the bill and, that moreover there were so many checks to be exercised in the office itself that even if he had put any wrong figures in his bill it was open to be corrected by the office, and as such merely making a false claim is no offence. This argument would have had some force if the wrong figures had been put in the bill at the very first instance when it was presented. But in the light of the finding that the bill when presented contained only lower figures of 1 and 3 in the quantity and that was subsequently changed to the higher figures of 31 and 93, which was before it came to the stage of checking, cuts the ground under this argument. It cannot for a moment be believed that the clerk A.4 in the office would, of his own accord make these alterations and prepare false bills with inflated figures to the advantage of the Contractor, unless he was prompted to do so by the Contractor. The risk that A.4 was taking to falsify the bills was a heavy one likely to bring him to ruin, and it is not likely that he would have done so gratuitously. So it is easy and reasonable to infer that he must have been paid for it and the only person interested in making payments for this man for this dirty job (it has already been shown that he has been so paid) is the first Accused who has received and cashed all those cheques based on bolstered up bills.

17. Moreover it is also not very reasonable to believe that A.1 would have taken whatever sum was given as payment towards his bill, without knowing what the amount due to him was. It is in evidence that he is an

an experienced contractor in this line in the Electrical Department for a number of years and even though he is illiterate, one cannot be too to believe that he was so innocent as not to know what amounts due to him were for the work he had done, having regard to the magnitude of the contract work that he has been doing. It is beyond belief that a person who for the work he has done expects only Rs.1700/- would not be surprised when he is given by the Government Rs.6441/- or more than double the amount, or even that thing would not have put him on enquiry as to how this arose about.

18. Even if we are prepared to accept that he innocently received this big addition beyond what was due to him in the case of the present bill Ex.P.6, still it becomes impossible to conceive that he would have done so in a series of such transactions. This brings us to the consideration of the other bills of the accused which have been put in force to for the prosecution. The prosecution does not rely upon other bills as put forward to prove the guilt of the accused with respect to the bill which is the subject-matter of the charge, but to show that this insertion of false claim and false figures in Ex.P.6, are not due to want of intention or knowledge on the part of the accused. The decision in 36 Bombay Chief Court Reports, page 819 is relied upon and it says that it is open for the prosecution to prove similar transactions for this purpose. But before they could rely upon other instances of similar fraud there must be clear evidence that such instruments were also similarly forged and I believe that in this case the prosecution has proved that these accused No.1 and No.4 have committed similar frauds with respect to other bills. These other bills are Ex.P. (XVI) and its duplicate Ex.P.(XX), Ex.P.(XII) and its

duplicate Ex.P.(XXVI), Ex.P.28, P.34, P.40, and P.61. All these bills are carting bills of these same contractors A.1 to A.3 and are signed by them. Excepting the bill Ex.P.61 the other contractors agreed the cheques in payments of the bills may be issued in favour of A.1. It is A.4 who has prepared all these bills. The duplicate carting chits with regard to these bills and which are in conformity with these bills are put forward as also the corresponding original and duplicate carting chits, and the discrepancy between the two is made out. The clerks who has issued these articles and these triplicates in the various cases are also examined as also the receiving clerks who have received the materials and acknowledged them in the duplicates and triplicates are also examined. With respect to the bill Ex.P.16, the duplicate carting voucher is Ex.P.17 (1 to 11) and the corresponding triplicates and the originals are Exs.P.16 series and P.17 series. Of these P.W.9 has issued Ex.P.17 (VII, VIII, IX, and P.XI and their corresponding duplicates and triplicates and and he swears that all these were identical when he issued them. These were received by P.W.13, and P.W.12 as the clerk and the corresponding Line Inspectors and they say that at the time they received the duplicate was in accordance with the triplicate and it is the quantity contained in the triplicate they received but now that these duplicates do not correspond with the originals or the triplicate and that there have been manipulations by inflating 2 into 32 in Ex.P.17 (1) 22 into 210 in Ex.P.17 (II), 14 into 140 in Ex.P.17 (3) and 17 (IV), 7 into 37 in P.17 (VIII) and in many of these vouchers the mileage also is altered from what is mentioned in the original and the duplicate. These witnesses, P.W.S. who have received as well as those who have despatched say

say that these variations did not exist at the time of issue of the material or at the time of receipt of them.

6 who has received*, the triplicates corresponded with the duplicates and it was only the quantity mentioned in the triplicate that he received. Ex.P.21 is the cheque issued by the Department in payment of this bill and that is for the amount claimed in the inflated bill Ex.P.16.

19. With respect to Ex.P.22 we have the carting vouchers marked Exs.P.22 (V to X) altered. The corresponding originals and the triplicates are also put in evidence and marked Exs.P.24 (V to X) and P.25 (V to X) and we find that while the originals and the triplicates bear no mark of tampering and tally with each other, the duplicates does not correspond with them and the bill based on it, Ex.P.22, corresponds only with duplicate and not with the original and the triplicate.--The persons who have issued the materials and these carting vouchers are examined as P.W.5 and P.W.9 and these swar that at the time of the issue the duplicate was identical in all respects with the original and the triplicate and that it was the quantity ~~mentioned~~ mentioned in the triplicate and the original that was actually issued. Likewise the person who has received them, P.W.10, has stated that when he received the materials the triplicate corresponded with the duplicate and had no difference whatsoever. As we find now, the numbers in the duplicate are altered from 2 into 42, 36 into 360, 14 into 140, 75 into 750, 6 into 61 and 7 into 117 in these respective vouchers and a similar corresponding manipulation is apparent also in the column mentioning in the number of carts used for carting these various materials and in some cases as to the total weight of the materials carted also. The wages claimed in the bill

* the materials taken in carting Vouchers P17 (a to g). also means that the lieue he received

itself is in accordance with the inflated figures found in the duplicate carting vouchers. Ex.P.27 is the cheque issued by the Department in payment of this bill and that again is not for the true quantity as stated in the triplicate and the original but for the exaggerated claim stated in Ex.P.22.

20. Exs.P.29 (I to IV) are the suspicious triplicate carting vouchers connected with the bill Ex.P.28. Their corresponding originals and the duplicate carting vouchers are also put in evidence and marked Ex.S.P.30 (I to IV) and P.31 (I to IV). It is P.W.11 who has issued these materials and the corresponding certificates from the Station Yard and it is P.W.13 who has received them, and they swar that at the time of issue and receipt the duplicate and the triplicate vouchers were identical and it was the material mentioned in the original that were despatched and received. Now we find the duplicate differing from the original and the triplicate in quantities and in the number of carts and the bill corresponds only to the duplicates and not the originals. The variations in the vouchers in this series is 2 to 32 poles, 4 to 84 poles, 14 to 74 poles and 2 to 12 poles. Ex.P.33 is the cheque issued by the department in payment of this bill and that cheque clears the amount falsely claimed in the bill Ex.P.28 and is far more than the correct amount due to the Contractors.

21. The next bill is Ex.P.34 and the corresponding suspicious vouchers supporting it are marked Exs.P.35 (I to IV) and these differ from their corresponding originals and triplicates marked Ex.P.36 (I to IV) and P.31 (I to IV) and the variations being from 5 to 45 poles, 16 to 76,

2 to 32 and 2 to 12 respectively. It is the clerks P.W.11 and P.W.13 who are concerned in the issue and the receipt of the materials connected with these vouchers and they pledge their word that all these vouchers were identical at the time of the issue of the materials and thereceipt at the destination and were according to the original vouchers. Now the bill corresponds not to the original but with the duplicate vouchers and is for an exaggerated quantity. Ex.P.38, the cheque which clears this bill is issued for the higher false claim made in the bill and is much more than what is due as per the triplicate vouchers.

22. Coming to the next bill Ex.P.40 we have the suspicious vouchers connected with it marked as Exs.P.41 (II, III, IV, and V). The prosecution has put in the corresponding the original and triplicate vouchers marked Exs.P.42 (I to V) and P.43 and in Ex.P.19 (II). Here again we find the originals corresponding with the triplicates in all respects as to the quantity and as to the number of carts employed and differing from the duplicate vouchers as they stand; and the bill Ex.P.40 corresponds not with the correct figures as stated in the originals but with the duplicates which bear apparent marks of tampering and fabrication. The clerks concerned in the issue of the bills viz., P.Ws.7, 11, 13, 14 and 17 swear that these marks of tampering did not exist at the time of either the issue of the materials from the Station Yard or when the materials were received by them at the destination. It is clear therefore that the duplicates are also tampered with in this case and the bill prepared in conformity with the alterations made in the duplicate, the alterations always made in favour of the Contractor and to the prijudice of Government. The Cheque Ex.I.45 issued in connection with this bill satisfies the claim falsely put forward by the Contractors in the bill and is for a higher amount than that could be

would be really due if calculated according to the quantity entered in the originals.

25. The last bill put in by P.W. in connection with this matter is Ex.P.61 and the suspicious vouchers connected with it are Ex.P.62 (I) and P.62 (II) where the pole-s entered are shown as 24 in each and the same figure is carried into the bill Ex.P.61 and higher claim made on that material. But the original and the triplicates put in evidence (the latter Ex.P.63 (I and II) and Ex.P.64) show that only 4 poles were issued under each voucher and the amount concerned in the issue as well as the receipt of the same viz., P.W.5 and 6 swear that it is the quantity in the original that were issued and that at that time the duplicate corresponded in all respects with the originals. In this case, too, we thus see, the duplicates are tampered with with respect to the quantity as well as the number of cart. used to support the false claim made in the bill Ex. P.61 and cheque Ex.P.65 issued by the Department in clearance of this bill pays the false and exaggerated claim and is for a higher amount than the true claim due as per the original carting quite.

26. There are several similar instances which the prosecution has put in to show that a systematic scheme of fraud was being practised by the Contractors in conjunction with A.4 to defraud the Government money. The review of these bills discloses that the modus operandi of the fraud is the same throughout and is identical with that which is practised in connection with the bill in question, Ex.P.5 viz., of giving the bills into the office putting in some exaggerated claim and after its return from the Branch Office with its verification, to tamper the

tamper the figures in the duplicate vouchers filed along with the bill as alos the figures in the bill itself to conform the claim on the respective items so tampered to give the total claim put forward in the bill. The amount for which the Government has been unjustly put out of pocket in connection with these bills amounts to over Rs5,000/- and has been paid in excess of the just claim due to the work done in these bills. This cuts at the root of the argument that A.1 was innocent of whole matter of the fabrication of the bills, was merely entrusting the work of preparing the bills to A.4 and did not know what amount was claimed under the bill or what was due to him. It is next to impossible to believe that a person who is carrying on contracting work to this extent should not even have a rough idea of what was due to him or that having received Rs5,000/- over and above what was justly due to him, he should not have suspected that there was something wrong in the matter of claims put forward by him in the bills. I am not prepared to pay the least weight to this plea of the Accused. I have therefore no hesitation in holding that the bill in question Ex.P.5 is a forged document prepared by accused 4 in collusion and at the instigation of A.1 to bolster up these claims against Government.

25. For these Offcences or fogery with the intention of cheating and of cheating itself Ac.A4 and A.1 have been already convicted in the previous trial (Sessions Case No. 5/36-37). We have now to see whether they have committed the further offences with respect to these forged bills of fraudulently using the forged document in the case of A.1 and of having abetted A.1 in such use in the case of A.4 There could not be the slightest doubt that A.1 has thus fraudulently used this forged document and has reaped the benefit of getting much higher amount than due to him by

getting the cheque Ex.P.14 which he has since cashed and the consideration of which he has received as proved by [illegible]22. All the three Assessors, who helped in the trial, are unanimously of opinion that A.1 is guilty of this offence and agreeing with them, I convict A.1 Doddiah of the offence under Section 471 I.P.C.

26. In the case of A.4 therein, I think, some difference to be made. That he has forged this document is beyond doubt. Whether it could be said at the same time that he has abetted in the fraudulent use of this forged document has to be considered. As already stated the forgery has been effected after the bill was presented by A.1 in the office. A.4 himself was an official working in the office, and as he had some influence over the bill checking clerk at the time viz., A.5 he had opportunities of getting at the document though it was not his legitimate duty to check them, and it was by taking advantage of that opportunity that he has enabled to temper these bills in the manner stated above. It is easy to imagine how this forgery has been effected. Perhaps he had a furtive access to the bill at that time. He effects these alterations in the duplicate and the bill and leaves where they are. That would be forgery no doubt. Could it amount to making use of the forged document as well? I do not think so. The user of the document or the uttering of it is a distinct act from the forgery itself. By tampering the document and leaving it where it was it could not be said that A.4 has gone further than merely forging it or it could not be said that he has used it. There is no other evidence let in for the prosecution in the case attributing any further act of A.1 to indicate that he had done anything more than merely altering the figures in

in this document. In short there is no evidence from which it could be inferred that A.4 not merely forged the document but rendered any help to A.4 (one) in making use of the document and getting illegal gains. My opinion from this aspect of the matter is that the evidence is lacking in the case to show that A.4 has lent his aid t A.1 in uttering this document. From this point of view I think the charges of abetment of the offences of the fraudulent user of the document charged against this A.4 cannot stand and differing from the unanimous opinion of the Assessors that this Accused is guilty of the abetment of the offence under Section 471, I am inclined to record the finding that he is not guilty of that offence.

27. There is also another aspect of the case connected with A.4. As already stated for forging the same document Ex.P.5 he has already been convicted and sentenced. Could he be convicted still for the offence of abetment of the fraudulent user of that document? There are various decisions holding that where the offence of forging a document and of fraudulently using that document unite in one and the same person separate sentences are not warranted. 23 Allahabad page 84 is the earliest decision. To the same effect are the decisions in 1913 Punjab Law Reporter No.52, and No.45 of 1913. 26 p.r. 1901 also supports that view. All these decisions are reviewed in the case reported in 30 Mysore Chief Court Reports - Page 14/ where also the Court held that a dual sentence under Section 466 and 471 against the same person with respect to the same document are not warranted and set aside the sentence with respect to one. The same

same view is taken in the latter decision of our High Court reported in 12 Mysore New Journal 398, where for all the offences under Section 467, 468, 465 and 471 charged and convicted with respect to the same document against the same accused the High Court passed only a single sentence with respect to one of them viz., 468 and held that one sentence only was warranted for all these offences and not separate and distinct sentences. The reasoning in all these cases is that Section 471 is directed against the same person other than the person proved to be the actual forger and that the forger could not be punished both for forgery of the document and using it as genuine. Taking that as the reason the fact that these two offences are tried in two separate trials and not in one as against one person with respect to the same document does not seem to make any difference in principle. Nor does it seem to me to make any difference that in this case, that A.4 is sentenced in the previous case with respect to the offence under Section 465, while now the charge against him is not for the substantial offence of uttering that forged document coming under Section 471 but for the abetment of the offence under Section 471; for as held by the Madras High Court in 24 Indian Cases 970 the abettor of a forgery could not legally be separately sentenced for fraudulently using the forged document and vice-versa the forger of a document cannot be separately sentenced for the abetment of the fraudulent user of that document. In this view also I am inclined to hold that even if A.4 is held guilty of the charge he could not be liable for a separate punishment.

12. I next come to the consideration of the case against A.3. In this case the Assessors gave a unanimous verdict of "NOT GUILTY" though they have qualified it

by saying that they give him the benefit of doubt. I am inclined also to agree with them in the opinion. The only circumstance against this accused is that he is a joint acting contractor along with A.1, that he has jointly signed the bill Ex.A.6 along with this accused one must be taken to have presented it to the Electrical office with A.1. But as already stated the tampering with that document has taken place subsequent to its presentation. It therefore lies upon the prosecution to make out that he was aware of this tampering after it was presented in the office, and for that purpose I am believe that any evidence exists in the prosecution case the prosecution has not shown that to his knowledge the bill after presentation in the office was tampered with the manner already shown. It is not shown that this A.6 was privy to any of these transactions with A.4 or in the close understanding which existed between A.1 and A.4. The course of dealing point out that it was A.1 who was taking the leading part in the business. It is in evidence that he was the alone who was carrying on the contract in the beginning and it was only later that A.6 joined him. Even after he joined, he seems to have taken but a minor part in the business. The bill itself shows that he has made the endorsement on it authorising the the Department for the issue of the cheque for the total amount of the claim in the name of A.1 alone. But as has already been pointed out it is A.1 who gets all the cheques in his name and it is therefore he who has cashed and realised the amounts. There is no indication in the evidence to show that A.3 ever knew what the amount received under each bill is or that it differed from the claim

originally put forward. It is true that it is likely that having regard to the fact that three of them were jointly carrying on the contract and the contract was of a fairly big nature that these contnactors were maintaining some sort of accounts. As a matter of fact this A.3 has expressly stated in his statement that they were maintaining accounts and says that the burden of maintaining it and having possession of the books also was on the shoulders of A.1. A.1 has made no statement with respect to it. But now those account books are not produced before Court. It is possible to raise some sort of adverse inference for A.3 not having produced the books before Court, but it is not clearly established that whether that responsibility of not having produced the account books could be shouldered on to A.3. Even assuing that they were maintaining account, it is still a strained inference to say that the book would show the amount recovered under different bills. It is now shown the three parters have settled their accounts or the mode in which they were sharing in the profit of this business. It is not in evidence whether it was their practice to share as and when the amount of each bill was got or whether it was intended to be shared when finally the contract was over and the accounts settled. A.3 says that it was latter course intended and it becomes still more difficult to connect A.3 with the knowledge of the amounts actually realised under these bills. For these reasons I feel some doubt whether A.3 could be imputed with the dishonest intention or even of any knowledge of these bills after they were presented in the Office being tampered with and false claims being supported by these forgeries added in the bill and the vouchers. I therefore, give this A.3

A.3 Veerappa the benefit of doubt and agreeing with the Assessors acquit him of the offence with which he is charged under Section 471 I.P.C.

29. There remains the case of A.5 to be considered. He too is charged with having abetted the use of this forged document Ex.P.5, knowing that it was a forged document. It therefore lies very heavily upon the prosecution to make out that this Accused had the knowledge that the document was a forged document. The only evidence against him is that he was at that time the Bill Checking Clerk in the Head Quarter Section Office, and as a matter of fact checked this particular bill Ex.P.5 and has made the certificate in his own hand and initialled it, which has been signed later by his Officer. That certificate expressly states that he has checked the bills with respect to the Invoices and found them to be correct and the amount claimed in it are correct. The Accused has admitted that he has checked this bill and written this certificate, but contends that he himself was incapable of checking the bills and that as a matter of fact he did not go through the process of checking the bill as to the quantity with respect to the Invoices; but merely wrote on the certificate as instructed by A.4 and represented by him to be the practice. Many of these pleas of A.5 are borne out by the evidence of P.Ws themselves. It is in evidence that he has been put to this work of bill checking only just a short time before this bill came to be checked. In fact he was on sick leave from March 1935 and was recalled to duty on 16/5/1935. He was ill and for some time an In-patient in the hospital also. P.W.29 Mr.Hayath, has stated that he recalled this witness to duty even be-

before his leave had expired and he also supports the accused when he says that even when he joined duty the accused was far from having recovered from his illness and was complaining of giddiness and reeling in the head. He complained also that he could not do this work of bill checking and pleaded for a lighter work being given to him. But his request could not be complied with and he was asked to take up the work of bill checking and had to do it with the assistance and instructions of his predecessor in office A.4. It was in these circumstances that A.5 came to the work of the bill checking. He began it on 24/7/1935. The bill in question Ex.P.5 was given to him for checking just six days later and was only the third carting bill that came to him for checking. P.W.3 Malliah, P.W.5 Nanjundaswamy have also supported the plea of this Accused that he was expressing his unwillingness to do this bill checking work on the ground of his ill-health and also on the ground of his want of knowledge of that work, but that he was prevailed upon to take up that work with the promise that he would be given help by his co-clerks, especially the previous person who was looking after that work, viz., A.4 Ramchandrachar. P.W.3 also states that A.5gets tired of work soon and he is liable to get fits also. He has seen this Accused go to A.4 for help in the bill checking work and there is the fact that A.4 has given written instruction to A.5 in the matter of bill checking as per Ex.P.161 in his own hand. The witness also states that Ramachandrachar told A.5 that it was not possible to check the bill with invoices and that he himself was not doing it, and that he might follow his example of simple writing out the certificates and gave him previous certificates which he himself had

had made out on the bills he had checked. It is thus clear that this A.5 depended very much upon A.4 and was guided to a large extent by him in the matter of checking these bills. No doubt the answers, which A.4 has elicited from P.W.29 Mr.Hayath that even in 1930-31 this A.5 was looking after bill checking work, to a certain extent tends to throw some doubt on this plea of A.5 that he did not know the bill checking work at all. That he has checked bills in 1930-31 is amply proved by the evidence of Mr.Hayath with reference to the office registers maintained at that time. It is carting bills also that he has checked. But as argued by the counsel of A.5 the work of bill checking in 1930 was of quite different nature from the bill checking work done in 1935. Exs.D.89, 90 and 91 are some of the bills checked by A.5 in 1930 and they do not require much of arithmetical calculation, nor do they contain elaborate checking with the Invoices and certificates based upon such verifications to be given in those bills. In fact P.W.31 Ramanuja Iyengar, Accounts Assistant in the Chief Electrical Engineer's Office, has admitted that the bills checked at that time contained no certificates of invoice verification in the Head Quarter Section. But such certificates as they contained were those given in the Stores. In fact as he says the Circulars guiding the checking of bills at that time were different from the Circulars which are now in force in that matter. So that even if in 1930 this Accused was doing some kind of bill checking work, it would not stand him in good state for the kind of work that was required in 1935.

30. A.5 had nothing to do in the preparation of the bill Ex.P.5. It is not shown that he had any connection

connection with the original figures contained in the bill Ex.P.5 viz.,1, and 3 or with its subsequent alteration w into 31 and 93 either or the amounts being made to correspond with these figures. The evidence is also wanting to show that this A.5 had any sort of interested connection with the contractors so that it could be said that he too stood to gain from the illegal advantages obtained by altering the figures. In fact his very unwillingness to take up this work of bill checking indicates that he did not want, or at any rate was not aware that the work would entail some illegal gratification to his own benefit.

31. It remains therefore to see whether the bare fact of his having given a certification on Ex.P.5 would tend to show that he was abetting the other Accused in the fraudulent use of this forged document. As already stated there is no evidence to show that he was possessed with the knowledge that this document was a forged one. No doubt the certificate he has given requires him to compare the bills as to the quantity with the original invoice, which his office has received from the Central Stores. In this connection it may be mentioned that the various checks and audits gone through in the various states in this Electrical Department seem to be merely nominal and are utterly ineffectual for the purpose of really checking the bills. As already stated the bill undergoes checking in 3 places. Firstly there is checking of the bills in the Sectional Office of Mr.Foreguard at Hassan. There even assuming that the check was to be only with respect to the quantity and the distances of carting, still it is clear that even that portion of the checking was not being satisfactorily done. What they do, seems

seems to be to compare only the duplicate voucher which the party himself had submitted with the bill, with the figures mentioned in the bill itself. That is comparing the bill with itself. What was expected was that these should be compared with the triplicate carting chits which according to Circular Order Ex.P.3 was expected to be sent by the Line Inspector to the Sectional Office. That was not being done at all. The Sectional Office was not getting these bills from the Line Inspectors and was not insisting upon its receipt either. Some statement was made by Mr.Royan, P.W.18 that when necessary the clerk Powar used to go to the office of the Line Inspector Mr. Rama Rao and compare the bills with the triplicates in his office and that he had instructed his clerk to make available the vouchers in his office for inspection. That story is denied by Rama Rao, the Clerk, who says that he had no instructions from his officer to make it available or that at any time Powar made use of this concession and came to this office to compare the bill with the triplicate vouchers. Mr.Foreguard the Sectional Officer himself seems to have been exercising very feeble control of the office work. He seems to have left everthing to his Clerk Powar and naively confesses that his clerks were not doing any checking work at all to his knowledge. This indeed is a regretful confession for an officer to make. It is thus clear that the certificates written out by the officer at the Hassan Office was based upon no real checking of the fact for which these certificates were given.

32. The next check was at the Head Quarter Section. That Section was expected to audit the bill and the auditing was expected to be both with respect to the quantity

quantity as well as amount. There again they had no materials to check either of them as contained in the bill with any independent record. At any rate though they had such record they were not making use of it. As stated by the witnesses that was being done by way of audit was to compare the items contained in the duplicate vouchers with those in the triplicates and when those tallied to see if the rates as prescribed in the agreement were adopted in making the arithmetical calculation as mentioned in the bill, and if the amount claimed in the bill was in conformity with that or not. So far as the arithmetical checking was concerned no doubt this may have been effectual, that is to say taking the quantity and distances as mentioned in the contractors bill itself to be true fact. But whether the mileage and the quantity as stated in his bill was correct or not, that office was not taking proper steps to verify. As a matter of fact that Office was expected to verify, the quantity contained in the bill with respect to the Invoice and the Circular Order Ex.P.102 expects that the original carting chits ought to have been sent to this Office. But the original carting chits instead of being sent to this Office for this purpose remained only with the several Line Inspectors without any use being made of them at all. If those original carting chits had been received in the Financial Section Office, then it was clear that they would have had indepenaent material with which to compare the duplicate carting bills which the party produced with the bills. The want of observance of the instructions contained in the Circular has deprived them of a valuable piece of material intended to compare the bills with the original records.

Another piece of original record which would have been available for checking the material was the copy of the Invoice which ought to have been sent to that Office by the Central Stores. Ex.P.11 and Ex.P.144 are such copies of the Invoices which have been received in this Office. But it is clear not only from these Invoices themselves but also from the evidence of the various officers of this Head Quarter Section Office, that no use was made of these Invoices in the matter of checking up the quantity with the bills of the Contractors. As stated by P.W.29 Mr.Hayath there were three ways open to the office of linking up quantities mentioned in the bill with that of invoice viz., calculating on the various invoices these quantities which were billed in the various bills relating to the invoices and seeing in each bill whether the quantity claimed in the bill was that of the particular invoice or not. That process was apparently not being followed at any time at all, though the sending of the original invoice to that office could only have that object in view.

34. The second method described by P.W.29 was checking the quantity of the bills with respect to the "C" Register maintained in the Office. The evidence goes to show that "C" Registers in this case were maintained from the checked bills and not vice-versa, that the bills were checked with respect to the "C" Register. This "C" Register was maintained no doubt with respect to the invoices received in the office. But in the case of the Mysore Bhadravati Transmission Line that process was not being adopted, and the reason for omission is not clear, so that this method too was not availed off in the Office.

35. The third method stated by P.W.29 is to maintain a separate register entering the quantities issued as per the various invoices in one column and showing in the other column the various quantitiesbilled for. It is said that this last method was adopted in checking in the Sectional Office and Ex.P.(XIII) is the register maintained for that purpose. That Ex.P.(XIII) was maintained in the office is no doubt clear. It contains the writing of A.4 alsol But that it was used for the purpose of checking the quantities in the manner suggested by P.W.29 cannot be true. In the cross-examination of P.W.29 and of P.W.27 it has been clearly brought out that in the way in which thar register Ex.P.13 is maintained it is impossible to check with respect to the bill the quantity claimed by that bill is in accordance with the invoice corresponding to it or the quantity contained. In fact this witness that it was impossible to do so from the materials available in this register Ex.P.(XIII). It is unnecessary to go into the details of the various defects that are to be found in this register, Ex.P.(XIII). Suffice it to say that it is not available and does not contain sufficient information for the purpose of checking the quantities and as a matter of fact it was never being so used. P.W.29 has confessed that he is not aware which was the method adopted by the Office in respect of checking the bills, as regards quantities. In these circumstances we are led to the conclusion that the statement of A.5 that as a matter of fact the quantities were not compared with the invoices, and that merely formal certificates were being noted in the bills that such comparison was made, is true. If he, A.5, relying upon the representation made by A.4 wrote out these certificates which apparently

apparently are false and to which the officers have affixed their signature, then however much his action has to be condemned as being a breach of the official duty, he cannot be said to have had the required criminal intention of abetting the contractors in the fraudulent use of the forged document with the knowledge that that bill was a forged one. In fact he could not know whether the bill was a forged or not. In these circumstances, I think that the prosecution has not made out that A.5 Suryanarayana Rao, is guilty of the offence under which he is charged. Agreeing therefore, with the unanimous opinion of the three Assessors, I acquit him of the offence of abetment in the use of the forged document under Section 471 read with Section 109 I.P.C.

36. In the result therefore these Accused numbers 3 Veerappa, 4 Ramachandrachar and A.5 Suryanarayana Rao are acquitted of the offences charged against them. I convict A.1 Doddiah of the offence under Section 471 I.P.C. and in passing the sentence on him it has to be borne in mind that on practically the same facts but treated as a different offence of cheating under section 420 he has already been sentenced to two years rigorous imprisonment. Taking that into account, I think that a moderate sentence would meet the ends of justice against this A.1. I therefore sentence him to undergo rigorous imprisonment for three months.

Dictated to the Steno-Typist and pronounced in Open Court.

SD/- G. KRISHNAMURTHY,
23-12-38

ASSISTANT SESSIONS JUDGE.

"Copy"

G. Krishnamurthy

Asst Sessions Judge
Bangalore 17.1.39

Copy applied by Public Prod? on 16.1.35 CHW

Copy ready accepted 17.1.35 CHW

Copy delivered accepted 18.1.35 CHW

APPENDIX TO JUDGMENT:

IN THE COURT OF THE ASSISTANT SESSIONS JUDGE,

B A N G A L O R E.

Sessions Case No.1 of 1938-39.

Complainant:-	-(VS)-	Accused:-
Government of Mysore.		1. N.Doddiah. 2. Patel Siddegowda, since dead. 3. T. Veeranna. 4. D. Ramachandrachar. 5. R. Suryanarayana Rao. 6. T.K.Manjappa,(All charges are withdrawn).

The following witnesses were examined forthe Prosecution:-

1. B. Lakshminarasimhiah. 2. M. Sreenivasa Rao. 3. T.Malliah. 4. Sreeramalu. 5. M.S.Manjundaswamy. 6. K.Krishnaswamy. 7. Raja Sekhariah. 8. M.Sukumaran. 9. Cheluva Raj. 10. M.B. Krishna Murthy Rao. 13. Mr. F.C.D.Vaz. 14. Sreenivasa Rao. 15. R. Sreenivasa Rao. 16. Madduarishna. 17. Venkata Rao. 18. Royan. 19. A.N.Sreenivasan. 20. Narasimhiah. 21. Rama Rao. 22. Govêndarajan. 23. H.B.Power. 24. S.Krishna Rao. 25. K. Natarajan. 26. Balasundaran. 27. Mr.H.V.Srikantiah. 28. Narasimhan. 29. Mr. M.Hayath. 30. Mr.C.S.Foregard. 31. B. Ramanuja Iyengar. 32. Rahimankhan. 33. Mr. C.G.Forbes.

II. The following documents were exhibited for the Prosecution:-

Exhibit P.1.	A sketch of the route along which Mysore Bhadravathi transmission line has to run.	13/12/38.
Exhibit P.2.	Agreement for the carting of poles and other materials entered into between A-3 and th Chief Electrical Engineer.	6/12/38.
" P.3.	Copy of Circular order No.466 dated 18/4/1929 of Chief Electrical Engineer's Office, Bangalore.	12/12/38.
" P.4.	Copy of Circular order No.517 dated 29/7/1931/1-8 of C.E.E. of Bangalore.	-do-

	Bill No.132 dated 12/7/1935 for the months of April, May and June 1935 for carting materials by A.1-3.	
P.5(a)	Duplicate bill of Ex.P.5.	
P.5(a)1	Marked Certificate of Foregard Exhibit P.5.	
P.5(2).	Certificate of Asst. superintendent of Bhadravathi Transmission line Hassan dated 26/7/1935 Re: carting etc.	
P.5(3)		
P.5(4)	Certificate of Head Accountant on P.5.	
P.5(7).	D.C.E.E.'s certificate for Rs.445/-	
P.5(9).	D.C.E.E.'s certificate	3/12/38.
P.5(12).		

triplicates of Ex.P.28 and P.29.

Exhibit P.32. Headquarter Bill No.8 (Duplicate of P.2). not marked.

" P.33. Cheque carting No.06 7 dated 12/7/35 of M.Doddiah for Rs.673/- for carting Bill headquarter No.8 for Ex.P.32. 7/12/35.

" P.34. Headquarter Bill No.3813 dated 15/6/35 of A.1 to A.5. 1/12/35.

" P.34(a). Certificate of A.6 (Head Accountant) in Ex.P.34 10/12/35.

" P.34(d). Portion marked in Ex. P.34 (Diag). -do-

" P.34(c). Certificate of Mr.Hayath to Ex.P.34. -do-

" P.35(1-4). Duplicate carting sheets of Ex.P.34. 3/12/35.

" P.36(1-4). Triplicate carting sheets of Ex.P.34 -do-

" P.37. Duplicate of Ex.P.34. not marked.

" P.38. Cheque No. 3553 dated 18/8/35 in the name of M.Doddiah for Rs.701/- issued in respect of Ex.P.34. 7/12/35.

" P.39. Invoice in respect of Ex.P.34 12/12/35.

" P.40. Headquarter Bill No.3409 of A.1 to A.5.Narsa 1/12/35.

" P.40(a). Certificate of Mr.Hayath dated 3/12/35.

" P.41. Duplicate carting chit for Ex.P.40. 3/12/35.

" P.42(1-5) Triplicate Carting chits of Ex.P.40. 3/12/35.

" P.43. Original book of carting chits relating to P.40. 3/12/35.

" P.43.(1). Sheet No.30 in Ex.P.43. -do-

" P.43.(2). Sheet No.31 in Ex.P.43. -do-

" P.44. Duplicate of Ex.P.40. 1/12/35.

" P.45. Cheque No.00945 dated 24/4/1935 in the name of Doddiah for Rs.15[illegible]-12-6 issued in respect of Ex.P.40. 7/12/35.

" P.46.(1-2). Two invoices relating to above not marked.

" P.47. Statement showing the differences in the 6 bills.

" P.48. Notes of the Financial Assistant

" P.49. Government order dated 5/1/35 constituting the Financial Branch in the Electrical Department. 5/1/35.

" P.50. Letter constituting the head quarter Section (Copy) not marked

" P.51. Copy of Circular order No.3[illegible] carting bills. 1/12/35.

" P.52. Copy of letter No.7068 dated 26/7/1931.

(hibit P.15(a to d, f, j, k, kl, lto n).	Entries in Ex.P.15
xhibit P.16.	Head Quarter Bill No.159 dated 26/11/35 of A1-3.
	Certificate of Asst. Superintendent Bhadravati Transmission line dated 1)/11/35 in Ex.P.16.

it P. 55	Cheque No.[illegible] dated 31/8/1935 in the name of M. Doddia..	1/12/35.
P.55(a)	Attestation of Head Accountant to the thumb impression of A.1.	-do-
P.55(b)	Attestation of A.1 to Ex.P.55.	-do-
P.56	Bill passing Register	13/12/35.
P.56(a)	Entr in Ex.P.56 relating to P.56.	--do--
P.59	Bill receipt Book	12/12/35.
P.59(b)	Entry at page 69 in Ex.P.59.	14/12/35.
P.60	Bill transit Register	9/12/35.
P.60(a)	Entr in P.60.	-do-
P.60(b)	Entry in P.60.	--do--
P.61.	Head quarter bill No.1062 dated 10/12/35 in the name of Doddiah to A.E. (Veerappa).	
P.61(a)	Head Accountant certificate to the Ex.P.61.	10/12/35.
P.61(b)	Certificate of D.C.I.C.on P.61.	-do-
P.62(1-2)	Duplicate certing vouchers relating to P.P.61.	-do-
P.63(1-2)	Triplicate certing vouchers relatin to Ex.P.61.	-do-
P.65.	Cheque No.03476 in the names of A.1. to A.E. for .50k/- issued for Ex.P.61.	7/12/35.
P.66.	Cheque delivery register	13/12/35.
P.66(a)	Entry in Ex.P.66 dated 15-8-35	--do--
P.67	Consideration receipt dated 23/1/35 executed by A.1 Doddiah in favour of A.E. D. Ramachandrachar.	15/12/35.
P.69	Another consideration receipt dated 26/12/35 executed by A1. Doddiah in favour of D.Rama-chandrachar. A.E.	13/12/35.
P.71(a)	Cash register kept in the Head office, Electrical Department	--do--
P.71(a)1.	Entry in Ex.71(a)1.	--do--
P.72.	Material Register	6/12/35.
P.73.	Voucher Register.	3/12/35.
P.73(a)) P.73(a)1.) P.73(b)) P.73(a3).) P.73(D2))	Entries in Ex.P.73.	--do--
P.74.	C. Register of Th drawthi from Location line	

Exhibit	P.74(a).	Entry in Ex.P.74.
"	P 76.	Seven rough working sheet
"	P.77.	Copy of Letter by Mr.H.V. Srikantiya dated 2/3/36.
"	P.78.	Copy of letter by P.W.27 Mr.H.V.Srikantiya dated n..
"	P.81.	Reply dated 6th March 1936 P.77 from the Sectional Of
2	P.81(a)	Duplicate carting vouchers lating to P.5.
"	P.81(b	Letter to the Financial As enclosing a st. of poles.
"	P.81(c	Statement referred to in E
"	P.81(d	Letter d/- 14/3/36 regardi sending of poles.

Exhibit P.97(2).	True extract of share and drawing account etc. relating to A.4 and his wife in the City Co-operative Bank.	1/12/38
P.98(1-5)	Five fixed deposit Receipts of the City Co-operative Bank, Bangalore City given to Mrs. Padmavati Bai.	1/12/38.
P.100.	Paying in Slip No.1015 d/- 1?/5/36 of the City Co-operative Bank.	-do-
P. 101.	Complaint of Mr.F.N.Mowdawalla to the Police District Superintendent Bangalore.	16/12/38.
P. 102.	Letter to the Chief Line Inspector from the Electrical Department the Chief Electrical Engineer dated 18/20th July 1931.	10/12/38.
P. 104.	Material Register kept at Holenarasipur.	6/12/38
P. 105.	Material Register kept at Yedatore.	-do-
P.105(	Entry in Ex.P.105 relating to the figures mentioned in Exs.P.6 & P.7.	-do-
P.106.	Material Register kept at Mysore.	-do-
.107.	Contined note book of Ex.P.104 to 106.	-do-
P.108.	Cutting Book kept at Mysore.	-do-
P.108(a)	Entry in Ex.P.108.	-do-
P.108(b)	-do-	-do-
.109	Application dated 18/3/36 of D. Padmavati Bai for return of deposit addressed to the City Co-operative Bank.	1/12/38.
P.110.	Order dated 17/3/36 on the application for return of deposit by D. Padmavati Bai i.e.Ex.P.109.	-do-
P.117.	Memo attached to Ex.P.?8.	-do-
P.119 to 123.	Copies of circulars 1,2,133,194 and 216 of Electrical Department.	16/12/
P.124 to 126.	Receipt books from 17/8/34 to 6/11/35	7/12/38.
P.127 to 129.	Issue books from 10/5/34 to 21/9/35.	-do-
P.130 and 130(a).	Extract of Storck Ledger.	-do-
P.135.	Invoice (Stock) Book.	
P.135(a) P.135(b) P.135(c) P.135(c.1).		

Exhibit	P.144.	Fortythree, invoice receipts.
"	P.148.	Headquarter Bill No.2963 dated 2/3/35 of N Chikkiah.
"	P.149.	Headquarter bill No.532 dated 22/8/35 of A.1 to A.3.
"	P.150.	Headquarter Bill No.1590 dated 26/11/35 in the name of A.1-3.
"	P.150(a)	Certificate of Mr. Foregard.
"	P.153.	Headquarter Bill No.3270 dated 27/5/35 in the name of A.1-3.
"	P.155	Headquarter Bill No.4318 dated 13/6/35 in the name of A.1-3 Hass

III. No witnesses were examined for the defence.

The following documents were exhibited for the defence:-

Exhibit	D.2.	Blank certificate to be given for the receipt of materials.	15/12/38.
"	D.3.	Blank form of statement of Foreign materials received.	8/12/38
"	D.4.	"Gas Register. Vol, (IV)".	14/12/38
"	D.5(a).	Certificate of Foregard in P.14.	1/12/38
"	D.6.	Hand Quarter Bill No.3818 dated 22/8/38 in the name of Phillips.	12/12/38
"	D.6(a).	Certificate of Mr. S.L.Foregard dated 22/2/38 in D.6.	-do-
"	D. .	Order dated 15/16th May 1938 re-calling P.5 to duty.	14/12/38
"	D.12.	Entry in Ex. .15 at Page 31.	8/12/38
"	.16.	Headquarter Bill No.2358 dated 12/7/1938.	8/12/38
"	D.16(a).	Certificate of Mr. Foregard on D.16.	-do-
"	D.1 .	Entry at page 83 in Ex.P.15.	8/12/38
"	D.21.	Garrison order No.245 dated 9/11/38 (Copy).	10/12/38
"	D.2 .	Extract written in pencil in Ex.P.8.	8/12/38
"	D.23.	Duplicate sorting voucher.	-do-
"	D.24(a).	Certificate D.23.	-do-
"	D.2 .	Copy of Circular order No.121 of 15/8/1938 of D.I.G.'s office re: requisition and payment bills.	10/12/38
"	D.63.	Copy of Circular order No.358 dated 12/7/1938 of D.I.G.'s office regarding work bills of the Electrical Department.	-do-
"	D.50. D.50(a,b,c).	Copy of Standing Instructions by the Government of Lycore to the Superintendent Electrical Department for audit work in the Department.	-do-
		Headquarter Bill No.3820 dated 11/8/1937 in the name of Shankar.	15/12/38
		Headquarter Bill No.3816 dated 4/8/1937 in the name of S.V.Rangiah.	-do-
		Headquarter Bill No.3816 dated 4/8/1937 in the name of Soldier.	
		[illegible]	

Exhibit D.104.	Deposition of P. Nowdawalla in the committing Court.
D.105.	Deposition of Mr. C.E.Karia pa in J.C.No.5/36-37 on the file this Court, on the previous occasion.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 28th January 1939.

From

Additional
The General Secretary to the Government of His Highness the Maharaja of Mysore.

To

The District Magistrate,
Bangalore.

Sir,

Subject:- Electrical Department Defalcation cases.

With reference to the correspondence ending with your letter aide in continuation of this office letter no P 2607, dated 25th November 1938 No.J1-281/38-39, dated 18th November 1938, on the above subject, I am directed to state that Government agree with your recommendation that the cases in regard to the above, pending in the First Magistrate's Court, Bangalore, may be withdrawn, and to request you to issue necessary instructions in the matter.

I have the honor to be,

Sir,

Your most obedient servant,

For Additional Secretary to Govt.

Appendix F G—1]

SUBJECT.....

.....

.....

Section Law

File No. 53-38

Serial No. 6

Diary No. of letter replied to .....

No. P 4038

To The Dist. Magh
Bl'lore

General and Revenue Secretariat

( )

the *193*

Subject :- Electrical Department
Defalcation Cases.

Date of issue 28/1/39

Sir,

Signed by Mr. BKR
C.S.A.

With reference to the correspond
ending with your letter no. J1-281
and in continuation of this office letter no. P 2607 P 2
38-39, dated 18th Nov. '38) on the
above Subject, I am directed
to state that the Govt. agree with your
recommend
to withdraw ~~or~~
~~prosecution~~, the cases in regard to
above, pending in the First
Magistrate's Court, Bangalore,
may be withdrawn
~~may be withdrawn~~, and to
request you to issue necessa
instructions
further action in the matter.

List of enclosures.....

Copied by.....

28/1

Examined by.....

I have etc;
BKR

WD 0278—GPB—30,000—4-3-38